

Oregon Soil and Water Conservation District Guidebook

A Guide To
Operations and Management

March 2002

Oregon Soil and Water Conservation District Guidebook A Guide to Operations and Management

Table of Contents

Introduction

- I. History of Conservation Districts in Oregon
 - A. 1939 - Present
 - B. Certificated Names of Conservation Districts
 - C. Chronological Listing
- II. Oregon Laws and Rules Governing Conservation Districts
 - A. Enabling Legislation
 - 1. Definitions
 - 2. Oregon Revised Statutes, Chapter 568
 - 3. District Powers and Authorities
 - 4. Related Statutes and Administrative Rules
 - 5. Special Districts
 - 6. Entering Private Lands
 - B. Oregon's Agricultural Water Quality Management Program SB1010
- III. Conservation District Directors
 - A. District Directors
 - 1. Roles and Responsibilities of Directors and Boards
 - 2. Director Positions and Eligibility
 - 3. District Zoning
 - A. Zone Director Eligibility
 - B. At-Large Director Eligibility
 - C. Residency Requirements
 - D. Surrendering Director Positions
 - 4. Duties and Responsibilities
 - 5. Filling a Board Vacancy by Appointment

- 6. Vacating an Inactive Board Position
- 7. Decreasing Board Positions
- B. Director Elections
 - 1. Election Procedures
 - 2. Conservation District Elections Time Table
 - 3. Election Issues
 - 4. General Election Costs
 - 5. Oath of Office
 - 6. Recall Election Costs
- C. Associate Director and Director Emeritus
 - 1. Associate Director
 - 2. Director Emeritus
- D. Administrative Structure
 - 1. Chair
 - 2. Vice Chair
 - 3. Secretary
 - 4. Treasurer
 - 5. Registered Agent and Registered Office
 - 6. Committees
 - A. Standing Committee
 - B. Ad Hoc Committee
- E. Compensation of Directors

IV. District Operations

- A. Staying Legal
 - 1. The Five Basic Requirements
 - 2. Posting Requirements
 - a. Federal
 - b. State
 - c. State Compliance
 - 3. Public Records Law
 - 4. Conflict of Interest
- B. Contracts and Agreements
 - 1. Contracting Handbook
 - 2. Review of Draft Contracts and Agreements
 - 3. Contract Liability – Loss of Tort Coverage
 - 4. Hold Harmless/Indemnity Clause
 - 5. Public Funds and Competition

6. Commonly-asked Questions about Contracting
7. Contract Review Board, Rules, and Officers
 - A. Creating a Contract Review Board
 - B. Adopt Rules Governing Contracting Procedures
 - C. Appoint a Contract Officer
 - D. Appoint a Project Manager
- C. Vehicles
 1. District Vehicles
 - A. Insurance Coverage for Conservation Districts
 - B. Insurance Coverage for District Owned-Vehicle
 - C. Oregon Tort Claims Act Exclusions
 2. Use of Personal Vehicles
 3. Use of State or Federally-Owned Vehicles
 4. Leasing and Renting Vehicles
 5. Licensing
- D. Equipment
 1. Equipment Accountability
 2. Equipment Insurance
 3. Purchase and Sale of Equipment
 4. Purchase of State Surplus Equipment
- E. Insurance/Risk Management
 1. Risk Management Concepts
 2. Policies and Procedures
 - A. Personnel Management
 - B. Sexual Harassment Prevention
 - C. Drug and Alcohol Use Policy
 3. Tort /Tort Liability Insurance Coverage
 - A. Definition of a Tort
 - B. Extending State Tort Liability Coverage
 - C. Insurance Coverage for Conservation Districts
 - D. Oregon Tort Claims Act Exclusions
 - E. Authority to Purchase Coverage
 5. Commonly-Asked Questions
 6. Oregon Department of Agriculture, Assistance to Districts
 7. Attorney General Legal Counsel
- F. Miscellaneous
 1. Photo Identification Cards
- G. Changing District Name or Structure

1. Changing District Name
2. Zone Boundary Changes
3. District Boundary Changes
4. Consolidation of Districts

V. Plans and Planning

- A. Planning Concepts
- B. Needs Assessments
- C. Long-Range Business Plans
 1. Benefits of a Business Plan
 - A. Mission and Direction
 - B. Internal Management
 - C. Resource Requirements/Needs
 - D. Community and Partner Relations
 2. Business Plan Concepts
 - A. Resource Concerns and Outcomes
 - B. District Capacities, Needs and Strategies
 - C. Description of the District
 - D. Planning Process
- D. Annual Work Plans
- E. Recommendations for Writing Plans
- F. Implementing Plans
- G. Monitoring and Evaluating Plans

VI. District Finances

- A. Public Funds
- B. Fiscal Administration
- C. Budgets
 1. Developing and Adopting Budgets
- D. Financial Reports/Records
- E. Audits and Bond Requirements
 1. Oregon Municipal Audits Law

2. Levels of Financial Audit Requirements
 3. State Audit Review/Audit Process
 4. Federal Audit Requirements
 5. Fidelity and Surety Bonding
- F. Sources and Mechanisms for Funding
1. State Funds
 2. County Funds
 3. Taxing Authority
 4. Federal Funds
 5. Grant Funds
 6. Fund-Raising
 7. Tax Exempt vs. Nonprofit
 8. Tax Deductibility for Donations/Contributions

VII. Legislative Issues and Relations

- A. Supporting or Opposing a Ballot Measure or Candidate
1. The Governing Body
 2. Elected Officials
 3. Agency Staff
 4. Political Action Committee (PAC)
 5. Ballot Measure Campaigns
 - A. General
 - B. Preparation and Distribution of Written Materials
 6. Penalties for Violations
- B. Lobbying
1. Definition
 2. What is Lobbying?
 3. Conservation Districts' Authority to Lobby
 4. Registration

VIII. Legal and Effective Meetings

- A. Public Meetings Law
- B. Voting Requirements
- C. Executive Session
- D. Notice Requirements
1. Meeting Notices
 2. Commonly Asked Questions and Answers

- E. Meeting Management and Arrangements
 - 1. Meeting Agendas
 - 2. Meeting Time Limits
 - 3. Meeting Arrangements
- F. Parliamentary Procedure
- G. Control of Meeting
- H. Public use of Tape Recorders, Cameras and Microphones
- I. Smoking at Public Meetings
- J. Minutes of Meetings

IX District as Employer

- A. Legal Responsibilities of an Employer
 - 1. Register as an Employer
 - 2. State Withholding Tax
 - 3. Federal Income Tax and Social Security Tax
 - 4. Unemployment Tax
 - 5. Workers' Compensation Insurance
 - 6. Year-end Reporting Responsibilities
 - 7. Oregon Posting Requirements
- B. Equal Opportunity Employer
- C. Employee vs. Independent Contractor
- D. Hiring Practices
 - 1. Hiring and Firing Employees
 - a. Hiring Public Employees Issues
 - b. "Employment-at-will"
 - c. Employment Contracts
 - d. Wrongful Discharge
 - e. Contract Issues
 - f. Public Policy Issues
 - g. Other Claims Available to a Fired Employee
 - h. Avoiding Wrongful Discharge Claims
 - i. Remedies for the Wrongfully Terminated Employee
- E. Recruitment and Job Descriptions

1. Recruitment and Hiring Process
2. Post-Hiring
- F. Supervision of Employees
- G. Employee Classification and Compensation
- H. Personnel Policy Guidelines
- I. Employee Benefits
- J. Trial Service
- K. Employee Performance Appraisal
- X. Developing and Maintaining Partner Relationships
 - A. Oregon Department of Agriculture, Natural Resources Division
 1. Governing Legislation
 2. Purpose and Function
 3. Contact Information
 - B. Soil and Water Conservation Commission
 1. Governing Legislation
 2. Purpose and Function
 3. Membership
 4. Contact Information
 - C. Oregon Association of Conservation Districts (OACD)
 1. Formation
 2. Membership
 3. Structure
 4. Purpose and Function
 5. Policies
 6. OACD Foundation
 7. Contact Information
 - D. Oregon Conservation Employees Association Network
 - E. National Association of Conservation Districts
 1. Formation
 - F. Natural Resources Conservation Service

- G. Resource Conservation and Development
- H. Farm Service Agency
- I. Oregon State University Extension Service
- J. Watershed Councils
 - 1. Definition
 - 2. Enabling Legislation
 - 3. Purpose and Function
 - 4. Contact Information
- K. Oregon Watershed Enhancement Board
 - 1. History and Formation of the Agency
 - 2. Mission Statement
 - 3. Board Membership
 - 4. Programs
 - A. Grant Program
 - B. Fiscal Services and Training
 - C. Restoration Inventory
 - D. Conservation Reserve Enhancement Program
 - E. Watershed Council/SWCD Assistance
 - F. SWCD Small Grant and Landowner Workshops
 - G. Watershed Technical Tools
 - H. Small Grant Program
 - I. Watershed Research
 - 5. Contact Information

INTRODUCTION

The *Oregon Soil and Water Conservation District Guidebook – A Guide to Operations and Management* provides information and directions to assist soil and water conservation district directors, associate directors, directors emeritus, and employees to carry out the district's statutory responsibilities. Every conservation district director and employee should have a working knowledge of the Guidebook's contents. A suggested strategy for districts is to review portions of this Guidebook at each monthly board meeting. This will establish a routine under which districts can review and discuss information relating to district operations and management. This Guidebook is provided to conservation district partners so they will understand the opportunities, authorities, limitations, and constraints of conservation districts.

Other publications that complement and serve as a reference to the Guidebook include the following:

Oregon Soil & Water Conservation District Laws This publication is available through the Oregon Department of Agriculture, Natural Resources Division.

Attorney General's Public Records and Meetings Manual This publication may be purchased from the Department of Justice, 100 Justice Building, 1162 Court Street, N.E., Salem, Oregon 97301-4096. For a current price please call: (503) 378-2992. ext. 325.

This Guidebook was developed as a collaborative effort of the Oregon Department of Agriculture (ODA) and the Oregon Association of Conservation Districts (OACD). It replaces the 1992 version of the Director's Handbook in total.

Guidebook contents are organized into 10 major sections. Obviously, every issue or question has not been addressed. Therefore, a BULLETIN section was added to accommodate additional information not available at the time of this publication. BULLETINS will be prepared as needed and distributed along with an updated BULLETIN Table of Contents by the ODA and OACD. Every 3-5 years the Guidebook will be updated to address changes in statutes, rules, policies, and programs and to incorporate the information provided in BULLETINS. It will then be distributed to all districts and partners. This Guidebook is a dynamic document and will continue to be a "work in progress". Comments and suggestions on its contents are welcome and may be directed to ODA.

Special thanks go to Larry Ojua, Torey Labrousse, and John Mellott (retired) of ODA, and John McDonald of OACD for their extensive work to prepare this Guidebook. Thanks also go to others who provided contributions, suggestions, and editing.

Dated: March 2002

The ability of conservation districts to fully utilize the powers and authorities assigned in Oregon Revised Statutes (ORS) 568.210-890 and 900-933 relies heavily on four essential administrative and organizational functions:

1. Recruit, train, and retain high-quality directors, associate directors, and directors emeritus who demonstrate leadership skills and have organizational skills to address natural resource concerns and manage the conservation district;
2. Hire, train, and retain skilled, knowledgeable employees and volunteers;
3. Create and maintain an organizational system that operates legally, meets all the rules and mandates associated with being a public body, and carries out all explicit and implied business functions; and
4. Establish and maintain effective collaborative relationships with partners; other local, state, and federal agencies and organizations; cooperators and customers; and the public.

These four functions have been addressed in this Guidebook under 10 essential “desirable conditions” listed below. Contents of this Guidebook, additional BULLETINS, individual consultation with districts, and training programs will focus on helping conservation districts achieve these desirable conditions. Future capacity building efforts of ODA, OACD, and partners will focus heavily on these functions.

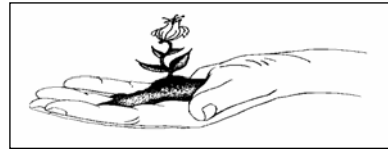
Desirable Components of Effective Districts

1. Dedicated, Effective Directors and District Leadership
2. Skilled and Knowledgeable Employees
3. Clear Sense of Direction and Purposes
4. Defined Ways to do Business
5. Processes to Monitor and Evaluate Operations – Internal Performance Audits
6. Effective Collaborative Partnerships
7. Informed and Involved Publics
8. Stable Resources and Financial Base
9. Effective Involvement in Political Processes
10. Adaptability – Recognize, Accept, and Internalize Purposeful Change

To comply with the Americans with Disabilities Act, this publication will be made available in alternate formats upon request. Hearing Impaired should call TDD 503-986-4762. The Oregon Department of Agriculture is an Equal Opportunity Employer providing services to the public without regard to race, color, national origin, religious preference, gender, age, or disability.

I. History of Conservation Districts in Oregon

The "Dust Bowl" captured the attention of the nation to the need to conserve soil and other natural resources. In 1935, President Franklin D. Roosevelt addressed the problems of soil erosion in the nation by shepherding the passage of the



Soil Conservation Act, which established the Soil Conservation Service (SCS) within the United States Department of Agriculture. The SCS was charged with developing a program to conserve and enhance the nation's soil and water resources. At first it was assumed the federal government could manage the whole program. However, during the first two years, it became apparent local leadership was needed to coordinate efforts of conservation agencies and tie their programs to local conditions and priorities. The SCS needed the assistance of local farmers, ranchers, and other land managers to put together and operate an effective program. In 1937, President Roosevelt asked all state governors to promote legislation to allow soil conservation districts to form. During that same year the US Congress developed a model conservation district law for consideration by state governments. Thus began a partnership that exists today.

A. 1939 - Present

In 1939, the Oregon Legislature passed enabling legislation to establish conservation districts in Oregon. Conservation districts were charged with directing programs to protect local, renewable natural resources.

The following sequence of events traces the history of the partnership among the Soil and Water Conservation Districts, Soil and Water Conservation Commission, Oregon Department of Agriculture, the Oregon Association of Conservation Districts, and USDA Natural Resources Conservation Service, leading to the structure that exists today.

GRASS ROOTS, a history of conservation districts in Oregon, has been published by the Oregon Association of Conservation Districts and is available from the treasurer of that Association.

1935 The USDA Soil Conservation Service was created in the U.S. Department of Agriculture (USDA), by the federal *Soil Conservation and Domestic Allotment Act*.

- 1937 The USDA officials drafted a standard State Soil Conservation Districts law, which President Franklin D. Roosevelt sent to state governors in February 1937. Roosevelt urged the states to pass laws based on this model, stating that "to supplement the federal programs, and safeguard their results, state legislation is needed."
- 1939 The Oregon Legislature passed a Soil Conservation District Law that created a **Soil Conservation Committee**. The Committee was established on August 5, 1939. This Committee began forming conservation districts that year.
- 1939 On September 14, 1939, the Soil Conservation Committee received the first petition to form a **Soil Conservation District** from South Tillamook County. Oregon's first Soil Conservation District became official on **February 10, 1940**.
- 1940 On March 13, 1940, the USDA Soil Conservation Service met with the Soil Conservation Committee for the first time, and the partnership between the Service, the Committee, and conservation districts began. A partnership agreement was developed.
- 1946 The Soil Conservation Committee hired its first Executive Secretary and became a policy-making agency.
- 1948 In November 1948 the Soil Conservation Committee formed the **Oregon Association of Soil Conservation Districts (OASCD)**.
- 1955 The Oregon Legislature changed conservation district law to require that soil conservation district directors be elected instead of appointed.
- 1955 The name of the Oregon Association of Soil Conservation Districts was changed to the **Oregon Association of Conservation Districts**.
- 1963 The Oregon Legislature added "**and Water**" to the name of Soil Conservation Districts and the Soil Conservation Committee.
- 1963 **Resource Conservation and Development** pilot projects were authorized by Congress.
- 1969 The Soil and Water Conservation Committee's name was changed to the **Soil and Water Conservation Commission**.
- 1980 Governor Atiyeh proposed that the Soil and Water Conservation Commission be merged with the **Oregon Department of Agriculture**.

- 1981 On July 1, 1981, the Oregon Legislature merged the Soil and Water Conservation Commission with the Oregon Department of Agriculture. The department formed a **Soil and Water Conservation Division**, which became the administrative oversight entity for Soil and Water Conservation Districts. The Soil and Water Conservation Commission was retained.
- 1989 The Oregon Legislature changed the name of the Soil and Water Conservation Division to the **Natural Resources Division**.
- 1994 The name of the USDA Soil Conservation Service was changed to the **USDA Natural Resources Conservation Service**.
- 1994 The **USDA Agricultural Stabilization and Conservation Service** and the **USDA Farmers Home Administration** consolidated to become the **USDA Farm Service Agency**.
- 1994 In November the Oregon Association of Conservation Districts changed its name to the **Oregon Association of Natural Resources Conservation Districts**.
- 1995 In November the Oregon Association of Natural Resources Conservation Districts changed its name back to the **Oregon Association of Conservation Districts**.

Since the first soil and water conservation district was established in 1940, many other conservation districts have formed, and many have consolidated or changed their names over the years. There currently are 45 soil and water conservation districts in Oregon. A directory of district offices and the names, addresses, and phone numbers of district officials is available from the Natural Resources Division of the Oregon Department of Agriculture. The directory also includes a map of the districts and their regularly scheduled meeting dates.

B. Certificated Names of Conservation Districts

When a conservation district is formed, it must follow the procedures in Oregon Revised Statute (ORS) 568.210 to 568.440 to receive a Certificate of Organization and become *certificated* by the Oregon Secretary of State. Once the Secretary of State approves a name for a district, the **certificated name** of the district should be used until such time the district decides to legally change it.

Each district should use its certificated name on legal documents, correspondence, contracts, financial records, publications, etc. to properly and

legally identify itself. The current certificated names for Oregon's Soil and Water Conservation Districts are listed on the following page.

Oregon Conservation District Certificated Names

Baker Valley Soil and Water Conservation District	Josephine Soil and Water Conservation District
Benton Soil and Water Conservation District	Keating Soil and Water Conservation District
Burnt River Soil and Water Conservation District	Klamath Soil and Water Conservation District
Clackamas County Soil and Water Conservation District	Lakeview Soil and Water Conservation District
Clatsop Soil and Water Conservation District	Lincoln Soil and Water Conservation District
Columbia Soil and Water Conservation District	Linn Soil and Water Conservation District
Coos Soil and Water Conservation District	Malheur County Soil and Water Conservation District
Crook County Soil and Water Conservation District	Marion Soil and Water Conservation District
Curry County Soil and Water Conservation District	Monument Soil and Water Conservation District
Deschutes Soil and Water Conservation District	Morrow Soil and Water Conservation District
Douglas Soil and Water Conservation District	Polk Soil and Water Conservation District
Eagle Valley Soil and Water Conservation District	Sherman County Soil and Water Conservation District
East Lane Soil and Water Conservation District	Siuslaw Soil and Water Conservation District
East Multnomah Soil and Water Conservation District	Tillamook County Soil and Water Conservation District
Ft. Rock/Silver Lake Soil and Water Conservation District	Umatilla County Soil and Water Conservation District
Gilliam County Soil and Water Conservation District	Umpqua Soil and Water Conservation District
Grant Soil and Water Conservation District	Union Soil and Water Conservation District
Harney Soil and Water Conservation District	Wallowa Soil and Water Conservation District
Hood River Soil and Water Conservation District	Wasco County Soil and Water Conservation District
Illinois Valley Soil and Water Conservation District	Washington County Soil and Water Conservation District
Jackson Soil and Water Conservation District	West Multnomah Soil and Water Conservation District
Jefferson County Soil and Water Conservation District	Wheeler Soil and Water Conservation District
	Yamhill Soil and Water Conservation District

C. Chronological Listing

Since February 10, 1940, when the first Soil and Water Conservation District was established, many conservation districts have formed, and others consolidated or changed their names. On the following pages is a chronological listing of all of the conservation districts formed in Oregon. The names of the current 45 conservation districts are printed in bold type.

<u>DATE OF FORMATION</u>	<u>SWCD</u>	<u>COUNTY</u>
February 10, 1940	South Tillamook SCD <i>consolidated into Tillamook County SWCD January 12, 1965</i>	Tillamook County
November 22, 1940	Necanicum SCD <i>consolidated into Clatsop SWCD in 1966</i>	Clatsop County
March 26, 1941	Warrenton Dunes SCD <i>consolidated into Clatsop SWCD in 1972</i>	Clatsop County
May 8, 1941	Langell Valley SCD <i>consolidated into Klamath SWCD February 5, 1974</i>	Klamath County
October 4, 1941	Heppner SCD <i>consolidated into Morrow SWCD December 20, 1972</i>	Morrow County
May 10, 1941	Keating SWCD	Baker County
September 1, 1942	Monument SWCD	Grant County
November 20, 1942	Southern Wasco SCD <i>consolidated into Wasco County SWCD June 10, 1973</i>	Wasco County
February 15, 1944	Sauvie Island SCD <i>name changed to West Multnomah SWCD in April 1975</i>	Multnomah County
April 26, 1944	Eagle Valley SWCD	Baker County
March 13, 1945	Poe Valley SCD <i>consolidated into Klamath SWCD June 5, 1972</i>	Klamath County
March 28, 1946	West Umatilla SCD <i>consolidated into Umatilla County SWCD March 13, 1974</i>	<i>Umatilla County</i>
April 2, 1946	Union SCD	Union County

DATE OF FORMATION	SWCD	COUNTY
August 9, 1946	Gilliam County SWCD	Gilliam County
October 18, 1946	Wallowa SWCD	Wallowa County
December 23, 1946	Clatskanie SCD <i>consolidated into Columbia SWCD August 16, 1966</i>	Columbia County
December 23, 1946	Linn-Lane SCD <i>consolidated into Linn SWCD March 7, 1978</i>	Linn and Lane Counties
December 23, 1946	Siuslaw SWCD	Lane County
April 20, 1947	Scappoose-Rainier SCD <i>consolidated into Columbia SWCD on August 16, 1966</i>	Columbia County
May 12, 1947	Northern Wasco SCD <i>consolidated Wasco County SWCD on June 10, 1973</i>	Wasco County
May 13, 1947	Central Wasco SCD <i>consolidated into Wasco County SWCD June 10, 1973</i>	<i>Wasco County</i>
June 23, 1947	<i>Midstate SCD became Deschutes SWCD</i>	<i>Deschutes County</i>
July 31, 1947	Lakeview SWCD	Lake County
August 26, 1947	Boardman SCD <i>consolidated into Morrow SWCD December 20, 1972</i>	Morrow County
October 22, 1947	Santiam SCD <i>consolidated into Marion SWCD September 10, 1971</i>	Marion County
November 12, 1947	Baker Valley SWCD	Baker County
February 24, 1948	North Tillamook SCD <i>consolidated into Tillamook County SWCD January 12, 1965</i>	Tillamook County
September 12, 1949	Silver Creek SCD <i>consolidated into Marion SWCD September 10, 1971</i>	Marion County
November 30, 1949	Burnt River SWCD	Baker County
December 13, 1949	Illinois Valley SWCD	Josephine County
December 30, 1949	Josephine SWCD	Josephine County
April 21, 1950	Sherman County SWCD	Sherman County
October 24, 1950	East Multnomah SWCD	Multnomah County

DATE OF FORMATION	SWCD	COUNTY
January 18, 1951	Sams Valley-Beagle SCD <i>consolidated into Jackson SWCD October 17, 1966</i>	Jackson County
October 24, 1951	Elgin SCD <i>consolidation with Union SWCD on March 24, 1976</i>	Union County
September 30, 1953	Hood River SWCD	Hood River County
June 24, 1953	Mt. Angel SCD <i>consolidated into Marion SWCD September 10, 1971</i>	Marion County
September 16, 1953	Malheur County SCD <i>consolidated into new Malheur County SWCD June 6, 1974</i>	Malheur County
March 19, 1953	South Umatilla SCD <i>consolidated into Umatilla County SWCD March 13, 1974</i>	Umatilla County
March 19, 1953	Fort Rock/Silver Lake SWCD	Lake County
April 2, 1953	Yamhill SWCD	Yamhill County
April 30, 1953	Curry County SWCD	Curry County
April 30, 1953	Umpqua SWCD	Douglas County
June 9, 1953	Rogue SCD <i>consolidated into Jackson SWCD October 17, 1966</i>	Jackson County
July 1954	East Linn SCD <i>consolidated into Linn SWCD March 7, 1978</i>	Linn County
October 18, 1954	North Douglas SCD <i>consolidated into Douglas SWCD June 9, 1987</i>	Douglas County
August 25, 1955	Lincoln SWCD	Lincoln County
June 20, 1955	Washington County SWCD	Washington County
August 30, 1956	North Lane SCD <i>consolidated into East Lane SWCD May 3, 1988</i>	Lane County
July 30, 1956	Grant SWCD	Grant County
December 28, 1956	Benton SWCD	Benton County
September 30, 1957	Trout Creek SCD <i>became Jefferson County SWCD September 5, 1974</i>	Jefferson County

DATE OF FORMATION	SWCD	COUNTY
March 11, 1958	Adrian SCD <i>consolidated into Malheur County SWCD June 6, 1974</i>	Malheur County
June 17, 1958	North Clackamas SCD <i>consolidated into Clackamas County SWCD March 22, 1974</i>	Clackamas County
October 24, 1960	East Umatilla SCD <i>consolidated into Umatilla County SWCD March 13, 1974</i>	Umatilla County
June 8, 1961	South Clackamas SCD <i>consolidated into Clackamas County SWCD March 22, 1974</i>	Clackamas County
June 12, 1962	Coos SWCD	Coos County
1963	"and Water" was added to the name of conservation districts.	
December 10, 1963	Wheeler SWCD	Wheeler County
October 12, 1964	Clatsop SWCD <i>consolidated with Necanicum SCD in 1966, and with Warrenton Dunes SWCD in 1972</i>	Clatsop County
January 12, 1965	Tillamook County SWCD <i>formed by consolidation of South Tillamook SCD and North Tillamook SCD</i>	Tillamook County
April 25, 1966	Polk SWCD	Polk County
August 16, 1966	Columbia SWCD <i>formed by consolidation of Clatskanie SCD and Scappoose-Rainier SCD</i>	Columbia County
October 17, 1966	Jackson SWCD <i>formed by consolidation of Sams Valley-Beagle SCD and the Rogue SCD</i>	Jackson County
April 29, 1970	South Douglas SWCD <i>consolidated into Douglas SWCD June 9, 1987</i>	Douglas County
May 20, 1971	Upper Willamette SWCD <i>consolidated into East Lane SWCD May 3, 1988</i>	Lane County

DATE OF FORMATION	SWCD	COUNTY
September 10, 1971	Marion SWCD <i>formed by consolidation of Santiam SCD, Silver Creek SCD, and Mt. Angel SCD</i>	Marion County
March 16, 1972	Clatsop SWCD <i>formed by consolidation of Clatsop SWCD and Warrenton Dune SCD</i>	Clatsop County
May 25, 1972	Crook County SWCD	Crook County
June 5, 1972	Klamath SWCD <i>formed by consolidation of Poe Valley SCD and Langell Valley SCD</i>	Klamath County
June 6, 1972	Harney SWCD	Harney County
December 20, 1972	Morrow SWCD <i>formed by consolidation of Heppner SCD and Boardman SCD</i>	Morrow County
June 10, 1973	Wasco County SWCD <i>formed by consolidation of Southern Wasco SCD, Northern Wasco SCD, and Central Wasco SCD. Name was changed from Wasco SWCD to Wasco County SWCD on November 2, 1973</i>	Wasco County
March 13, 1974	Umatilla County SWCD <i>formed by consolidation of West Umatilla SCD, Southern Umatilla SCD, and East Umatilla SCD</i>	Umatilla County
March 22, 1974	Clackamas County SWCD <i>formed by consolidation of North Clackamas SCD and South Clackamas SCD 1961</i>	Clackamas County
June 6, 1974	Malheur County SWCD <i>consolidated from original Malheur County SCD, and Adrian SCD</i>	Malheur County
September 5, 1974	Jefferson County SWCD <i>formerly Trout Creek SCD</i>	Jefferson County
April 14, 1975	West Multnomah SWCD <i>formerly Sauvie Island SCD</i>	Multnomah County

<u>DATE OF FORMATION</u>	<u>SWCD</u>	<u>COUNTY</u>
March 24, 1976	Union SWCD <i>formed by consolidation of the original Union SCD and the Elgin SCD</i>	Union County
March 7, 1978	Linn SWCD <i>formed by consolidation of Linn-Lane SCD and East Linn SCD</i>	Linn County
June 9, 1987	Douglas SWCD <i>formed by consolidation of North Douglas SCD and South Douglas SCD</i>	Douglas County
September 9, 1987	Deschutes SWCD <i>formerly Midstate SCD</i>	Deschutes County
May 3, 1988	East Lane SWCD <i>formed by consolidation of North Lane SCD, Upper Willamette SWCD, and Mid-Lane SCD</i>	Lane County

II. Oregon Laws and Rules Governing Conservation Districts

A. Enabling Legislation

1. Definitions

Oregon conservation districts are political subdivisions of state government but are not state agencies. Conservation districts are considered municipal corporations, a form of local government that is required to follow many of the same laws that govern state agencies.

Statute: *A law enacted by the legislative assembly of a nation or state.*
– Webster's dictionary

Administrative Rule: *A directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy or describes an agency's procedure or practice requirements.*
– Oregon Attorney General's Administrative Law Manual

2. Oregon Revised Statutes, Chapter 568

The Oregon Legislature passed the Soil Conservation District Law in 1939 that created a Soil Conservation Committee. The committee was established on August 5, 1939. The law also authorized the committee to begin forming Soil Conservation Districts, which were changed to Soil and Water Conservation Districts in 1963. (See *Chapter I - History* for details).

The primary statutes relating to formation and governance of Oregon Soil and Water Conservation Districts are contained in Oregon Revised Statutes (ORS) 568.210 through 568.890. A listing of these statutes follows:

This page intentionally left blank

SOIL AND WATER CONSERVATION DISTRICTS (Generally)

568.210 Definitions for ORS 568.210 to 568.808 and 568.900 to 568.933
568.225 Policy
568.300 Petition for formation of district; contents; consolidation of petitions
568.310 Notice of hearing; questions considered
568.320 Owner and interested parties have right to be heard; subsequent notice and hearings
568.330 Determination of need for district recorded; factors considered in determination; territory need not be contiguous
568.340 Determination of no need for district recorded; subsequent petitions may be filed
568.350 Referendum; purpose
568.360 Referendum ballot; contents
568.370 Eligible electors
568.380 Department to pay expenses and supervise hearings and referenda; informalities in referendum
568.390 Referendum results; majority required for creation of district
568.400 Appointment of first directors of district
568.410 Procedure for constituting district a public body
568.420 Certificate of organization by Secretary of State; boundaries of district
568.430 Petitions for inclusion or withdrawal of territory; form; eligible electors
568.440 District legally established; certificate as evidence
568.445 Petitions for inclusion of territory wholly within another district; approval or disapproval by directors and department
568.450 Procedure for consolidating districts
568.460 Referendum; eligible electors; majority required
568.470 Effect of consolidation on several districts
568.480 Petition and referendum for discontinuance of district
568.490 Directors to wind up affairs and dispose of property; application and certificate to Secretary of State
568.500 Certificate of dissolution; effect
568.510 Proceedings for discontinuance limited
568.515 Termination of inactive district's existence
568.520 Petitions nominating directors; regular elections
568.530 Nominees' names placed on referendum ballot

568.540 Votes necessary to elect directors
568.542 Payment of expenses for director election from county funds
568.545 Procedure for selection of directors of consolidated districts; selection of officers
568.550 General powers of directors
568.552 Power of directors to manage and control water resources and projects; authority of Water Resources Commission
568.554 District to submit program and work plans for department review
568.555 Name of district may be changed
568.560 Number of directors; officers; election; terms; vacancies
568.565 Procedure for reducing number of directors
568.570 Majority constitutes a quorum
568.580 Annual meeting
568.590 Notice of annual meeting
568.600 Legal counsel; delegation of powers; assistance to department
568.610 Records; audits
568.620 Consultation with county or municipal representatives
568.630 Directors may formulate land-use regulations; public meetings
568.640 Referendum on land-use regulations; notice; form of regulations; proposed regulations available for inspection
568.650 Contents of referendum ballot; referendum governed by directors; landowners eligible to vote
568.660 Votes necessary for approval; effect of regulations when adopted
568.670 Landowner may petition for amendment or repeal; procedure; referenda limited
568.680 Scope of regulations; approval by department
568.690 Regulations to be uniform; copies to be available to landowners
568.700 Directors petition circuit court for enforcement of regulations; contents of petition
568.710 Hearing and decree; court may appoint referee; joinder of owner and occupant
568.720 Court retains jurisdiction until work completed; statement of expenses; judgment
568.730 Officials may enter private lands
568.740 Board of adjustment established for each district; membership; appointment; term; disqualification

568.750 Vacancies in board of adjustment; compensation of members; administrative expenses
568.760 Rules of board of adjustment; meetings
568.770 Petition for relief from regulations; hearing; procedure; board may order variance of regulations; appeal
568.780 Certain public agencies to be deemed owners
568.790 County funds for personnel and other uses; duties of county extension agent
568.801 Stream control and management projects; application; designation and implementation; rules
568.805 Special assessments; improvement bonds; remonstrance by landowners (Tax Levying Authority)
568.806 Ad valorem tax; budget; collection
568.807 Electors authorizing taxation; election date
568.808 Taxing district to file legal description and map

WIND EROSION CONTROL

568.810 Purpose of ORS 568.810 to 568.890; types of wind erosion
568.820 Designation of areas by county court upon petition; description of boundaries
568.830 Publication and posting of notices describing districts; when regulations are enforced
568.840 Election of advisory board; meetings; members; functions
568.850 Wind erosion inspector; appointment; duties; appeal from decision; compensation; expenses
568.860 Inspector may enter lands in district; service of notice on owner or occupant
568.870 County court may authorize inspector to control erosion; expenses of control
568.880 Tax levy for wind erosion control
568.890 District may be dissolved; disposition of district funds; change of district boundaries

The complete text of these statutes is available in the *Oregon Soil and Water Conservation District Law Book*.

3. District Powers and Authorities

The general powers and authorities of conservation districts in Oregon are described in ORS 568.550 as follows:

1. To secure surveys and investigations and do research relating to:
 - a. the character of soil erosion;
 - b. the character of flood water and sediment damage;
 - c. all phases of the conservation, development, utilization and disposal of water; and
 - d. the preventive measures, control measures and improvements needed.
2. To conduct demonstration projects on lands within the district upon obtaining the consent of the owner and occupier of such lands.
3. To carry out preventive and control measures on lands within the district upon obtaining the consent of the owner and occupier of such lands.
4. To enter into written agreements with and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to any agency, governmental or otherwise, or any owner or occupier, or both of them, of and within the district, for the purpose of carrying on soil erosion control and prevention operations within the district.
5. To obtain options upon and to acquire by purchase, exchange, lease, gift, grant, bequest or devise any property, real or personal or rights or interests therein; to maintain, administer and improve any properties acquired; to receive income from such property and to expend such income in carrying out the purposes and provisions of ORS 568.210 to 568.808 and 568.900 to 568.933; and to sell, lease or otherwise dispose of any of its property or interests therein in furtherance of the purposes of ORS 568.210 to 568.808 and 568.900 to 568.933.
6. To borrow money and to mortgage personal property of the district as security therefore; provided, landowners are given opportunity to be heard at a public hearing in the district, notice of which shall be given according to rules described by the department.
7. To make available, on such terms as it shall prescribe, to landowners or occupiers within the district, agricultural and engineering equipment, fertilizer, seeds and seedlings and other material or equipment.
8. To construct, operate and maintain such structures as may be necessary or convenient for performance of any of the operations authorized in ORS 568.210 to 568.808 and 568.900 to 568.933.
9. To develop comprehensive plans and specifications for the conservation of soil resources and for the continued control and prevention of soil erosion within the

district, and to publish such plans, specifications, and information and bring them to the attention of owners and occupiers of lands within the district.

10. To take over, by purchase, lease, or otherwise, and to administer, any soil conservation erosion control, or erosion prevention project, or combination thereof, located within its boundaries undertaken by the United States or any of its agencies, or by the state or any of its agencies.
11. To manage, as agent of the United States or any of its agencies, or of the state or any of its agencies, any soil conservation, erosion control, or erosion prevention project, or combination thereof, within its boundaries.
12. To act as agent for the United States or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil conservation erosion control, or erosion prevention project, or combination thereof, within its boundaries.
13. To accept donations, gifts and contributions in money, services, materials, or otherwise from the United States or any of its agencies, or from this state or any of its agencies, and to use or expend such moneys, services, materials or other contributions in carrying out its operations.
14. To sue or be sued in the name of the district; to have a seal, which shall be judicially noticed; to have perpetual succession unless terminated as provided by law; to make and execute contracts and other documents necessary or convenient to the exercise of its powers; to make, and from time to time amend and appeal, rules not inconsistent with ORS 568.210 to 568.808 to 568.900 to 568.933 to carry into effect its purposes and powers.
15. As a condition to the extending of benefits under ORS 568.210 to 568.808 and 568.900 to 568.933 to, or the performance of work upon, any lands not owned or controlled by this state or any agencies, the directors may require contributions in money, services, materials or otherwise to operations conferring such benefits, and may require landowners and occupiers to enter into and perform such agreements or covenants as will tend to prevent or control erosion thereon.
16. To purchase liability insurance or indemnity insurance, in such amounts and containing such terms and conditions as they may deem necessary, for the protection of directors, officers and employees in the performances of their official duties. The premiums for such insurance shall be paid out of moneys available for expenditures by the district.

4. Related Statutes and Administrative Rules

Additionally, conservation districts are subject to the provisions of several other statutes and Oregon Administrative Rules (OARs) as outlined below. The full text of statutes is available at <http://www.leg.state.or.us>. The full text of the administrative rules is available at <http://www.sos.state.or.us/archives/rules>.

<u>STATUTE</u>	<u>DESCRIPTION</u>
Americans With Disabilities Act of 1990	Hiring Persons With Disabilities – Federal
OAR 137-30-000 through 137-35-080	Oregon Public Contracting Law
Oregon Constitution Article XV, Section 3	Oath of Office
ORS 44.320	Oath of Office
ORS 190.003 through 190.110	Intergovernmental Cooperation
ORS 192.001	Public Records Policy
ORS 192.005 through 192.190	Custody and Maintenance of Records
ORS 192.310	Records and Reports
ORS 192.410	Inspection of Public Records
ORS 192.610 through 192.710	Public Meetings
ORS 198.010 through 198.955	Special Districts
ORS 198.330 through 198.365	Dissolution of Inactive Districts
ORS 198.410 through 198.440	Recall (of district directors)
ORS 244.010 through 244.400	Conflict of Interest
ORS 247.035	Residency
ORS 292.210 through 292.250	Subsistence and Mileage allowances for Travel by State Officers and Employees
ORS 294.305 through 294.565	Local Budget - <i>Required of district with a tax levy</i>
ORS 297.005 through 297.712	Contracting
ORS 297.210 through 297.230	Auditing Accounts of State and State-Aided Institutions and Agencies laws
ORS 297.405 through 297.485	Municipal Audits
ORS 542.750	Watershed Protection and Flood Prevention
ORS 561.395	Soil and Water Conservation Commission
ORS 561.400	Natural Resources Division (ODA)
ORS 568.900 through 568.933	Agricultural Water Quality Management
ORS 659.010 through 659.990	Civil Rights, Unlawful Employment Practices
ORS 659.405	Civil Rights of Disabled Persons
Title VII Civil Rights Act of 1964	Equal Opportunity Employment/Sexual Harassment/Discrimination – Federal

5. Special Districts

All Oregon soil and water conservation districts are classified as special districts under ORS 198.010 through ORS 198.955. As special districts, conservation districts are eligible to become members of the Special Districts Association of Oregon (SDAO). SDAO provides a variety of resources, consultation, insurance plans, and training opportunities to its members. The following is a partial list of special districts in Oregon:

Type	Statute
9-1-1 Communications Districts	ORS 401
Cemetery Maintenance Districts	ORS 265
Corporation for Irrigation, Drainage, Water Supply or Flood Control	ORS 554
County Service Districts	ORS 451
Diking Districts	ORS 551
Domestic Water Supply District	ORS 264
Drainage Districts	ORS 547
Geothermal Heating Districts	ORS 523
Highway Lighting Districts	ORS 372
Irrigation Districts	ORS 545
Library Districts	ORS 357
Mass Transit Districts	ORS 267
Metropolitan Service Districts	ORS 268
Park and Recreation Districts	ORS 266
People's Utility Districts	ORS 261
Port Districts	ORS 777
Port of Portland	ORS 778
Road Assessment Districts	ORS 371
Rural Fire Protection Districts	ORS 478
Sanitary Authority, Water Authority or Joint Water and Sanitary Authority	ORS 450
Sanitary Districts	ORS 450
Soil and Water Conservation Districts	ORS 568
Vector Control Districts	ORS 452
Water Control Districts	ORS 553
Water Improvement Districts	ORS 552
Weather Modification Districts	ORS 558

6. Entering Private Lands

In addition to the powers and authorities previously described, ORS 568.730 authorizes districts "to go upon any lands within the district, after notifying the owner or operator, for the purpose of making surveys and to determine whether land-use regulations adopted under ORS 568.630 to 568.690 are being observed. Due precaution shall be taken at all times to prevent injury to growing crops or livestock." Additionally, in implementing agricultural water quality management program strategies, ORS 568.915 states "after a reasonable attempt to notify the landowner, the Department of Agriculture or a designee of the department may go upon any lands within the area subject to a water quality management plan for the purpose of determining: (1) those actions that may be required of a landowner under ORS 568.900 to 568.933; and (2) whether the landowner is carrying out the required actions."

It is strongly recommended that districts make every reasonable effort to obtain permission from the landowner or operator before entering private property.

B. Oregon's Agricultural Water Quality Management Program – SB1010

Senate Bill 1010, passed by the Oregon Legislature in 1993, directs the Oregon Department of Agriculture to work with farmers and ranchers to develop area-wide water quality management plans for the state's watersheds. Senate Bill 1010 is a principal strategy as part of agriculture's role in responding to the federal Clean Water Act, Coastal Zone Management Act, Endangered Species Act, Oregon Plan for Salmon and Watersheds, and other natural resource conservation mandates.

Conservation districts are essential partners with the department and private landowners in implementing Senate Bill 1010. The department enters into interagency agreements with Local Management Agencies to provide assistance to landowners in developing and implementing Agricultural Water Quality Management Program area plans. In most cases, the Local Management Agency is the local conservation district. Conservation districts provide assistance to landowners in evaluating their property and implementing conservation measures. Districts also help landowners access technical and financial resources through NRCS and other local, state, and federal agencies.

III. Conservation District Directors

A. District Directors

"District director" is the title given to persons who are elected or appointed to serve on a conservation district board. In some states they are called supervisors or district officials. In Oregon, conservation district directors are elected in the November General Election held on even-numbered years. District directors serve four-year terms. Director positions are elected in "staggered" terms to provide continuity on the board and maintain operational consistency. A district board may appoint a person to fill a board position vacancy between elections.

1. Roles and Responsibilities of Directors and Boards

ORS 568.550 outlines the general statutory powers granted to conservation district boards. (See *Chapter II – Oregon Laws and Rules Governing Conservation Districts* for a listing of district powers and authorities). An individual director has power only when acting as a part of the district board. Individual board members may be given authority or power to act on behalf of the board in specific, limited tasks. This authority or power is granted through board action (resolution, motion, policy, etc.) and must be recorded in the meeting minutes. Conservation boards may choose to limit or grant authorities to individual directors relating to different actions, such as:

- Staff supervision
- Obligating district funds
- Serving as a district spokesperson for public presentations, media, etc.
- Managing projects
- Obligating or committing district staff time or other district resources
- Signing documents

Effective boards work cooperatively as a unit to plan and oversee implementation of their district's programs. As a representative of the district board, opinions expressed publicly by individual board members should be consistent with established board policy, not the individual's personal agenda or opinions.

2. Director Positions and Eligibility

ORS 568.560 describes the eligibility requirements for a person to become a soil and water conservation district director. ORS 568.560(1) states that conservation district boards shall have either five or seven directors, who are elected at the November General Election in even-numbered years. Each district is certified by the Secretary of State as having a five-director board or a seven-director board. A board cannot change its number of positions without going through a process described in statute. (Described later in this Chapter).

3. District Zoning

To ensure proper representation in a district, each district is divided into legally-defined zones. By statute, a seven-member board must have five zone director positions and two at-large director positions. A five-member board must have three zone director positions and two at-large director positions. The term of office of each position is four years.

A. Zone Director Eligibility

To become a **zone director**, two options are available:

Option #1:

- Own or manage 10 or more acres of land in the district. Zone directors may either reside within the zone that is represented or own or manage 10 or more acres within the zone that is being represented and be involved in the active management of the property;
- Be involved in the active management of the property;
- Reside within the boundaries of the district; and
- Be a registered voter.

Option #2: An individual may serve as a zone director when the individual, **in lieu of the land ownership or management requirements** in Option #1:

- Resides within the zone that is represented;
- Has served at least one year as a director or associate director of a district;
- And has a conservation plan approved by the conservation district board.

NOTE: The size of the property for which the conservation plan is developed is up to the discretion of the conservation district board. There are no guidelines for what constitutes an acceptable plan. The district board must use its own discretion.

B. At-Large Director Eligibility

At-Large Directors must:

- Reside within the boundaries of the conservation district; and
- Be registered voters.

There are no land ownership or management requirements for at-large positions.

C. Residency Requirements

Any candidate for a conservation district director position must be a registered voter, and must meet residency requirements as provided in ORS 247.035.

D. Surrendering Director Positions

If a director ceases to meet the eligibility requirements while serving in his or her current position as previously outlined (such as moving from or ceasing to own or manage property in the district or zone), the directorship must be surrendered. ORS 568.560(4) specifies an elected director continues to serve until a successor has been elected or qualified, or until the department declares the position vacant pursuant to ORS 568.560(5).

4. Duties and Responsibilities

Although district board members do not have individual powers and authorities under statute (unless granted by the district board), it is in the best interest of the district to identify the duties and responsibilities expected of individual board members. This can be accomplished by establishing board member position descriptions or district policy. Some customary duties and responsibilities of individual board members include:

- Attend and actively participate in all board meetings.
- Come to meetings prepared.
- Carry out committee responsibilities.
- Keep abreast of local conservation issues.
- Attend area and state meetings of the state association.
- Participate in training opportunities.
- Promote the district's work to local landowners.
- Promote the district's work to its constituency.
- Promote the district's work to agencies and organizations.
- Promote the district's work to legislators and other decision makers regarding the district's funding.

In order to effectively exercise the powers and authorities as stated in ORS Chapter 568, district boards should:

- Identify local conservation needs and work to meet them within the limits of its resources.
- Keep its conservation district's mission ("reason for being") in focus.
- Work effectively with district staff and cooperating agencies.
- Implement district programs effectively.

- Be very knowledgeable about laws that govern how the board must operate, such as budget, audit, public meetings, and contracting laws.
- Ensure the board's policies and activities are consistent with the policies of the Oregon Department of Agriculture, Natural Resources Division and the Oregon Soil and Water Conservation Commission.
- Ensure the board's long-range business plans are consistent with the policies of the Oregon Department of Agriculture's Natural Resources Division and the Oregon Soil and Water Conservation Commission.
- Develop and carry out effective Annual Work Plans.
- Report to the public on the district's programs and accomplishments.
- Keep legislators and local government officials informed on district accomplishments.
- Recruit new associate directors.
- Do a periodic "self-evaluation" of the board's progress toward accomplishing its mission, Annual Work Plan, and Long-Range Business Plan.
- Promote what the district does to local landowners, other constituencies, county commissioners, agencies, organizations, legislators, and the news media.
- Seek new partners in conservation efforts.



5. Filling a Board Vacancy by Appointment

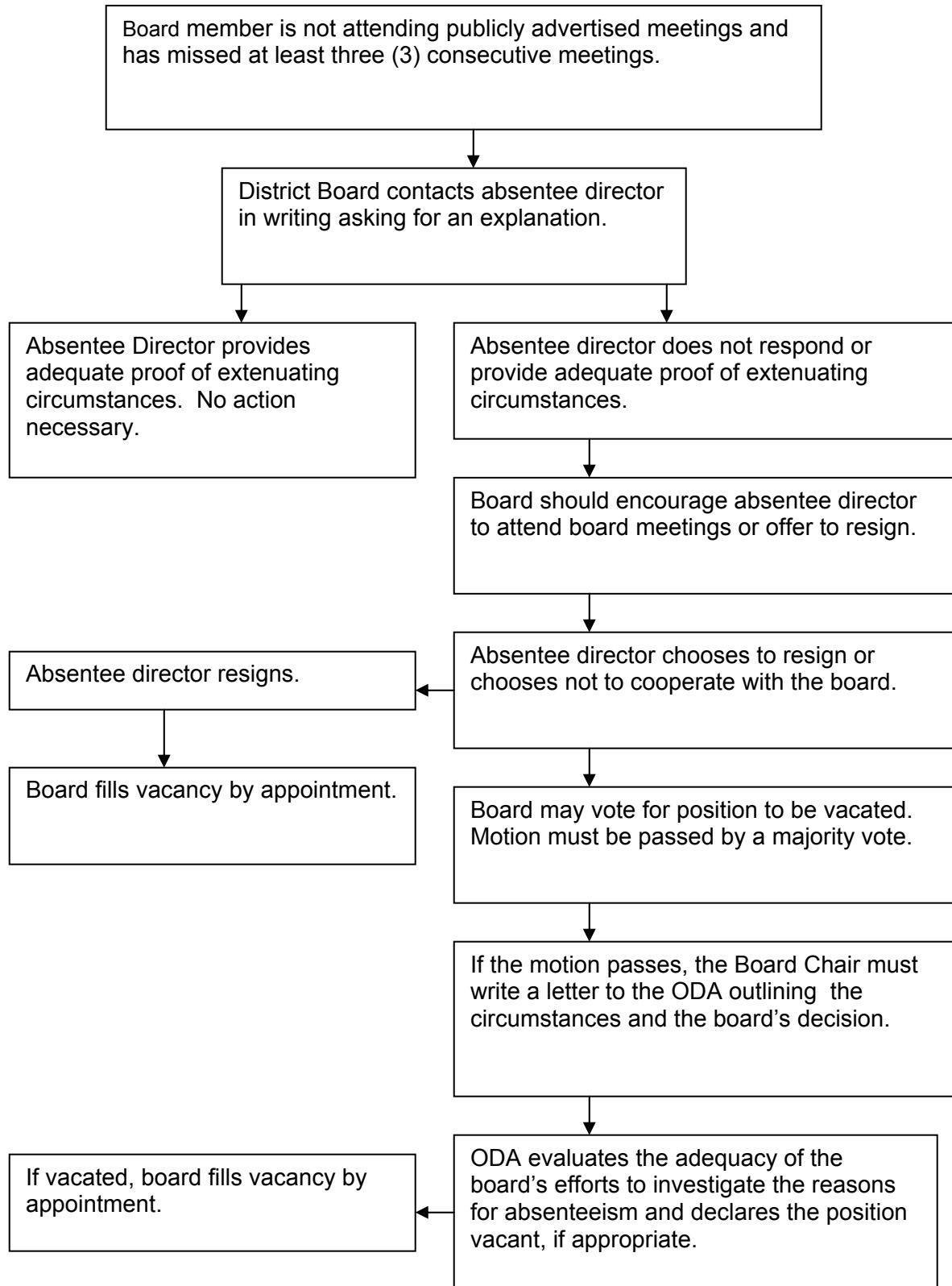
A board may fill a vacancy that occurs between General Elections by a majority vote of remaining board members. An appointed director must meet the same eligibility requirements as an elected director as previously described. For example, a district board cannot fill a vacated zone director position with an associate director unless the associate director meets either Option #1 or Option #2 of the zone eligibility requirements above.

6. Vacating an Inactive Board Position

ORS 568.560(5) states, "Upon written recommendation of a majority of the members of the local governing body of a district, the department may declare vacant the position of any director who is absent from three consecutive meetings of the local governing body of the district." If a conservation district director is not attending publicly advertised meetings of the district board, and has missed at least three consecutive meetings, the board may request the

position be declared vacant by the Department of Agriculture. District boards need to use the following process:

VACATING AN INACTIVE BOARD POSITION



6. Decreasing Board Positions

Demographic changes within a conservation district's boundaries may make it necessary to reduce the number of director positions. To decrease the number of director positions the district must follow the procedures as outlined in ORS 568.565.

B. Director Elections

The election of conservation district directors occurs during the Oregon General Election in November on even-numbered years. Conservation district election laws, ORS 568.520 through 568.545, provide the process for conservation district elections. Where the ORS 568 statutes are incomplete, election law under ORS 249.031 is followed.

The Natural Resources Division of the Oregon Department of Agriculture oversees the conservation district elections process. A district must follow specific guidelines to advertise, collect, and process candidates' applications to be placed on the ballot. The division notifies each district which director positions are up for re-election, what procedures to follow, and the deadlines for each procedure in advance of a General Election. The district and the candidates are responsible to get the appropriate paperwork to the department and the County Clerk on time. Candidates are responsible to get their information into the local voters pamphlet. The district board should encourage qualified persons to be candidates for board positions.

The November General Election is an opportunity to market the local conservation district program! Positions that will be on the ballot are:

- (1) Positions with the term ending that election year,
- (2) Appointed positions since the last General Election, and
- (3) Positions that are vacant.

It is in the best interest of the district to have at least one candidate for each board vacancy on the ballot.

1. Election Procedures

Election laws are enacted and modified by the Legislature. The Secretary of State publishes an elections manual, prior to each General Election, which reflects any changes in elections law. Conservation districts may request the Elections Manual from the Secretary of State's office or the County Clerk's office.

2. Conservation District Elections Time Table

The Natural Resources Division mails each district information on the timetable in early April of each election year. It is the responsibility of each district to see that timelines are met. Most counties publish a voters pamphlet. Each conservation district must make its own arrangements to get information about its directors in the local voters pamphlet.

3. Election Issues

During each General Election issues may arise that cause difficulties for a district board. Some examples are as follows:

- (1) If a board position in the General Election ends in a tie vote, an automatic recount results. The Natural Resources Division will call the County Election Officer and request a recount. If, after the recount is done, there is still a tie vote, the winner is identified by drawing lots (i.e., flip of a coin, drawing of a straw). The law does not state how the lot is to be drawn. Sometimes the County Election Officer draws the lot and other times it is done by the Natural Resources Division. If the Natural Resources Division breaks the tie, it invites the candidates who are tied to be present for the drawing.
- (2) If no candidate files for a vacant position, write-ins may occur. This adds to the county's election costs and can result in an unfavorable public perception of the District. This again illustrates the importance of having qualified candidates for all vacant positions.
- (3) The Oregon Constitution does not allow a person to hold two lucrative elected positions at the same time. However, since conservation district directors are not paid, their board positions are not considered lucrative.
- (4) A person cannot hold more than one position on the same board.
- (5) ***Can a person be an employee in one district and serve on the board of another?***
Yes. The Attorney General says it is acceptable as long as the person is not in a policy/ decision-making position for the district where employed.

(6) ***Can a staff person of an agency serve as a director on a conservation district board (i.e., ODA, NRCS, DEQ, etc.)?***

Yes. However, a person working for an agency should be careful to avoid conflicts which may arise stemming from their employment with the agency.

- (7) If two vacant board positions are won by the same candidate, both positions are offered to that person. If the person meets statutory qualifications, he or she can accept either. Likewise, the same scenario can happen with a director who is on the ballot and elected to that position, and is also written in for another position by the electors. In either instance, the other position is not automatically filled by the runner-up. The remaining vacancy must be filled by appointment of the district board.

Note: If a person gets the most votes, by write-in or otherwise, for a district board at the General Election, but is not able to meet the eligibility requirements for a director position, the person getting the next highest votes does not assume the position. In such instances, the position is declared vacant and the board must appoint someone to the vacant position.

- (8) On write-in votes, one vote wins, even if it is the only vote cast.

4. General Election Costs

ORS 568.542 states "the expenses incurred for the election of directors of a soil and water conservation district under ORS 568.210 to 568.808 and 568.900 to 568.933 shall be paid out of county funds by the county or counties within which the territory of the district lies." Some County Clerks may not be aware of this provision. If a conservation district receives a bill from its County Clerk for conservation director elections, the Clerk should be provided a copy of ORS 568.542.

5. Oath of Office

Two copies of the Oath of Office should be signed by (a) the elected or appointed director and (b) the board Chair, a Notary Public, or other authorized official

Section 3. Oaths of office. Every person elected or appointed to any office under this Constitution, shall, before entering on the duties thereof, take an oath or affirmation to support the Constitution of the United States, and of this State, and also an oath of office. - Oregon Constitution

Article XV

present at the swearing in of the director. For consistency, each district should establish a policy on who is the authorized signatory for the Oaths of Office. There is no requirement that the signatory be a notary public. The district board chair, or other official, can be designated to sign the oath. One copy of the oath is to be kept by the district board and the other must be sent to the Natural Resources Division. The newly elected or appointed director should be sworn-in at a district board meeting. A director cannot assume the duties of the board position until the oath of office is signed and the director is sworn-in.

The Oath of Office used by conservation districts reads:

<p style="text-align: center;">OATH OF OFFICE</p> <p>I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Oregon, and that I will faithfully discharge the duties of the office of the Director of _____ Soil and Water Conservation District upon which I am now about to enter.</p> <p style="text-align: right;">_____ Director's Signature</p> <p>Subscribed and sworn to before me this _____ day of _____, 200__.</p> <p style="text-align: right;">_____ Signature of Authorized Official</p>	6.
---	----

Recall Election Costs

Conservation district directors are subject to **recall** by the local citizenry (ORS 198.430). The statutes that govern the process of conducting a recall are described in ORS 198.410 through 198.440. *If a conservation district director is subjected to a recall election, the cost of the election must be paid by the conservation district, **not** by those initiating the recall petition drive, nor the county, nor the Department of Agriculture.*

C. Associate Director and Director Emeritus

1. Associate Director

Conservation districts can expand the capabilities of the district board by appointing *associate directors*. Associate directors do not vote on board decisions. However, they can augment the board's knowledge and experience level and assist with district programs and activities. Associate directors, once officially appointed by the district board, are covered by the same Tort liability insurance as the directors while doing district work. (See *Chapter IV – District Operations* for discussion of tort liability insurance).

What is the term of appointment for an associate director?

An associate director serves until January 1 in odd numbered years. Every two years district boards should reappoint those associate directors who are interested in continuing and who have contributed sufficiently to the district's conservation efforts.

District boards are encouraged to do a self-assessment of the strengths and weaknesses of their boards. If there appears to be an area of expertise that is needed but is missing among the board of directors, the board could recruit an associate director with that expertise.

Can an associate director fill a position that has been vacated by a director?

Yes. However, the associate director must meet the statutory requirements for director eligibility as outlined earlier in this chapter.

The district should record in its minutes when a person is appointed to be an associate director. In addition to accurate record keeping of district business, this documentation may be necessary if an associate director wishes to qualify as a zone director under Option 2, as described earlier in this chapter.

2. Director Emeritus

Director emeritus is an appointed position on a conservation district board reserved for a person who previously served as a conservation district director in the United States or its territories where conservation districts exist. A director emeritus does not vote when the board makes an official decision.

A director emeritus serves until January 1 in odd numbered years. Every two years district boards should reappoint those directors emeritus who are interested in continuing and who have contributed sufficiently to the district's conservation efforts.

A person officially appointed to a director emeritus position is protected by the same tort liability insurance coverage as district directors, while doing district work.

D. Administrative Structure

ORS 568.545(2) requires all districts to select, at a minimum, a chair and secretary from among directors. A district should also appoint other officers and committees as needed. It is the responsibility of each district board to identify its needs and adopt policies, duties, and procedures for each of its officials. The following is a list of customary officer positions and responsibilities.

1. Chair

The chair is selected by the board to carry out certain leadership functions and responsibilities. The chair is typically given responsibility to:

- Set meeting agendas
- Preside at meetings
- Appoint committees
- Assign responsibilities
- Request reports
- Orient new directors
- Any other functions and responsibilities as determined by the board

Note: The district board has the authority and responsibility to define the role of the chair and other district officers by policy. Districts should clearly define what roles and responsibilities are granted to each officer, and then review and confirm this information annually when selecting its officers.

One of the main roles of a chair is to preside at district board meetings. The chair usually conducts the meeting according to some common parliamentary procedures or according to other established district policy. Generally the chair entertains motions from other members of the governing body, calls on people to speak, appoints committees if necessary, limits discussion, and facilitates the process to conduct business.

Recommendation: Districts should select and adopt operating procedures and provide this information to all board members and others attending district meetings. Some districts post their operating rules on the wall or provide a written copy of operating rules to people at meetings to help them understand the procedures under which the board meetings operates.

Can the district chair vote on motions?

Yes. Serving as chair does not preclude a director from voting. In fact, one of the most important functions of an elected official is to participate in the official decision-making process. All directors, including the chair, should vote on motions or decisions absent any compelling circumstances, such as a conflict of interest. Nothing in statute prohibits any director or chair from making or seconding a motion.

2. Vice Chair

Many districts choose to elect a vice chair as one of its officers. If a district determines to have a vice chair, the district should identify the roles and responsibilities for the position. Some of the responsibilities may include:

- Acts in place of the chair when needed
- Advises the chair on program and policy
- Arranges special programs for regular board meetings
- Serves as chair of standing committees.

3. Secretary

As mentioned earlier in this section, ORS 568.560(2) states, “the directors shall designate a chairperson, secretary and other officers as necessary and may, from time to time, change such designation.” Every district should select a board member to serve as the “official secretary.” However, the district board member selected as secretary is **not** required to perform all secretarial or clerical functions within the district. A district board may delegate certain secretarial duties to an employee, associate director, contractor, or volunteer if desired. It is common for district staff to record minutes and prepare information, agendas, correspondence, reports, and public meeting notices.

It is recommended that district boards adopt policy that clarifies the responsibilities of the “official secretary.” For example, the district may choose to require a signature of the “official secretary” on minutes, resolutions, budget documents, and other selected documents. There may also be specific

responsibilities for the "official secretary" to record minutes during an executive session when other staff or associate directors may not be available.

Other secretarial duties not assumed by the "official secretary" should be delegated to other personnel and identified in position descriptions or work plans.

4. Treasurer

Many districts choose to elect a treasurer as one of its officers. Typical functions of a treasurer include:

- Oversees the conservation district's finances
- Serves as chair of the finance committee
- Obtains/provides fidelity or surety bonds for persons handling funds (to protect from theft and misuse of district funds)
- Leads budget development
- Receives, deposits, and disburses funds
- Keeps complete financial records
- Presents financial statements at board meetings

5. Registered Agent and Registered Office

Conservation districts in Oregon are required by ORS 198.340 to designate a ***registered agent*** and a ***registered office***.

- (1) The ***registered agent*** shall be an agent of the district upon whom any process, notice or demand required or permitted by law to be served upon the district may be served. A registered agent shall be an individual resident of this state whose address is identical with the registered office of the district. The ***registered office*** may be, but need not be, the same as the place of business of the special district.
- (2) The district may change its registered office or change its registered agent, or both, upon filing in the office of the Secretary of State and County Clerk of each county in which located . . ."

The same information should be provided to the Natural Resources Division of the Oregon Department of Agriculture.

6. Committees

Committees can be an effective way for districts to plan and implement their work.

There are two primary types of committees.

1. A standing committee is a permanent committee charged with working on a basic aspect of district work. Standing committees may have a focus of education, finance, personnel, resource concerns, community relations, land use planning, water quality and other important issues.
2. A short term or "ad hoc" committee is a temporary committee charged with a specific task or for a specific time period. Ad hoc committees may

focus on elections, annual meeting, grant writing, or other specific tasks. Ad hoc committees usually are disbanded when the assigned task and/or timeframe is completed.

All committees should have a clear understanding of their purpose, charge, expectations and responsibilities (i.e., what they are to do). When forming committees, conservation districts should clearly identify

- The purpose of the committee
- Outcomes expected
- The desired role and participation of each entity on the committee (e.g., voting roles, consultation, advisory only, etc.)
- Time frame for reporting back to the board

Committee members may include district board members, associate directors, directors emeritus, district advisors, representatives of cooperating agencies and associations, or interested citizens.

E. Compensation of Directors

Every conservation district board has the statutory authority to compensate or reimburse its directors for costs incurred while doing district business (ORS 198.190). This statute states that a member of a governing body (board) of a district may receive an amount not to exceed \$50 for each day, or portion thereof, as compensation for services performed as a member of the governing body. Such compensation shall not be deemed lucrative. The governing body may reimburse a member for actual and reasonable traveling and other expenses necessarily incurred while performing official duties.

Each conservation district should adopt policies and procedures on the compensation of directors. Policies should include:

1. Determination of what is legally reimbursable and what is not
2. What the district board deems to be reimbursable
3. What rate of compensation is
4. Identify from what sources shall director compensation be paid (for example, dedicated grant or technical assistance funds should not be used for director compensation)

IV. District Operations

A. Staying Legal

1. The Five Basic Requirements

As mentioned in Chapter II of this Guidebook, conservation districts are governed by specific enabling legislation under ORS 568. They are also subject to other statutes and administrative rules affecting local government and special districts.

All conservation districts should become familiar with the five basic requirements identified in ORS 568. At a minimum, districts need to comply with these five requirements to stay legal and become eligible for funding from the Oregon Department of Agriculture. The following provides a list of the five requirements and a reference to the statutes relating to these requirements.

REQUIREMENT	RELATING STATUTE AND TEXT
1. Annual Work Plan	ORS 568.554 - District to submit program and work plans for department review.
2. Long-Range Plan	"Each conservation district shall submit to the State Department of Agriculture its proposed long-range plan and annual work plans for review and comment."
3. Annual Meeting and Notice	ORS 568.580 - Annual meeting. "Each year after the creation of the first board of directors at a time fixed by resolution of the board, the board, by giving due notice, shall call an annual meeting of the landowners in the district and present an annual report and audit."
4. Annual Report	ORS 568.590 - Notice of annual meeting. "Fifteen days before the annual meeting, the directors shall cause notices to be posted in three public places in the district and mailed to each cooperator in the district or published for two successive weeks in a paper of general circulation in the area, setting forth the time and place of holding the meeting."
5. Annual Financial Reports	ORS 568.610 - Records; audits. "The directors shall: (1) Provide for the keeping of full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted. (2) Provide for an annual audit of the accounts of receipts and disbursements."

In addition to these five basic requirements, conservation districts should become familiar with the other statutes and administrative rules identified in chapter II, relating to district operations. Of particular importance are the statutes and administrative rules relating to public meetings and records, conflict of interest, employment laws, contracting, civil rights, and discrimination. These topics are discussed in more detail in other sections of the Guidebook.

2. Posting Requirements

As an Employer of Record, a conservation district is required by law to post certain information at a readily visible site in the district office. A brochure listing these requirements may be obtained from any Oregon Bureau of Labor and Industries (BOLI) office or by writing:

BOLI/Technical Assistance for Employers
800 NE Oregon Street, #2
Suite 1010
Portland, OR 97232
Phone: (503) 731-4073, Extension 4
<http://www.boli.state.or.us>

In addition to the posting requirements, the brochure includes a listing of the posters and publications available from BOLI. Included in the listing is a single poster called, "Commonly Required Postings for Oregon Employers", which may cover all of the requirements for conservation districts. BOLI also provides telephone assistance at the number above.

FEDERAL Posting Requirements

Poster	Required For
<i>Federal Minimum Wage Poster</i>	All employers subject to the Fair Labor Standards Act.
<i>Family and Medical Leave Poster</i>	Employers with 15 or more workers.
<i>"The Law" Poster</i>	Employers with 15 or more employees, during 20 weeks of the year. Americans with Disabilities required postings are included in this poster.

STATE Posting Requirements:

Poster	Required For
<i>State Minimum Wage Poster</i>	All employers in Oregon, except federal government employers.
<i>Family Leave Poster</i>	Employers with 25 or more employees in Oregon.
<i>Job Safety and Health Poster</i>	Employers with one or more employees.

STATE COMPLIANCE Posting Requirements:

Poster	Required For
<i>Workers' Compensation Notice of Compliance</i>	All employers with one or more workers.
<i>Employment Insurance Notice</i> (Form 11)	Employers with at least a \$225 payroll in a calendar quarter. Employers with one or more workers during 18 different weeks in a calendar year.

3. Public Records Law

Conservation districts are subject to the requirements of the state's public meetings and records law. Under ORS 192.420 every person has a right to inspect any nonexempt record of a public body in the state. The Attorney General, however, has concluded that "person" does not mean public body. This means a public body cannot use the Public Records Law to obtain records from another public body.

- ***Who is subject to the Public Records Law?***

ORS 192.420 public records law is extended to any public body in this state. Public body is defined as including every state officer, agency, department, division, bureau, board, and commission; every county and city governing body, school district, special district (which includes conservation districts), municipal corporation (which includes conservation districts), and any board, department, commission, council, or agency thereof; and any other public agency of this state.

- ***Are private entities subject to the public records law?***

Normally public records law does not apply to private entities, such as nonprofit corporations and cooperatives. However, if a private entity fits the definition of a "functional equivalent" of a public body, it is subject to public records law. The following factors are among those used to determine whether a private entity is the functional equivalent of a public body:

1. The entity's origin: Was it created by government or independently?
2. Nature of the function(s) assigned and performed by the entity: Are they a traditional function performed by government?
3. Scope of authority granted and exercised by the entity: Does it have authority to make binding decisions or to make only recommendations to a public body?
4. Nature and level of governmental financial support;
5. Scope of governmental control over the entity; and
6. Status of the entity's officers and employees: Are they public employees?

- ***What records are covered by the law?***

ORS 192.420 defines "public record" as including any "writing" containing information relating to the conduct of the public's business, including, but not limited to, court records, mortgages, and deed records, prepared, owned, used, or retained by a public body regardless of physical form or characteristics.

ORS 192.410(6) defines “writing” to include handwriting, typewriting, printing, photographing, and every means of recording, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers (including message notes), maps, files, facsimiles, or electronic recordings. The Oregon Department of Justice advises that emails are also considered public records.

Records need not have been prepared originally by the public body to qualify as public records. If the information is “owned, used or retained” by the public body, it is subject to public records law.

- ***May a public body charge a fee per page for copies of public records and for time spent putting the information together?***

Yes. A public body may charge its actual cost to make the records available for inspection or for furnishing copies. The cost per copy should reflect the cost for a person to locate the information, copy it, and other administrative overhead.

NOTE: All districts should have a copy of the *Oregon Attorney General’s Public Records and Meetings Manual* and the *Administrative Law Manual* available through:
Department of Justice
100 Justice Building
1162 Court Street, NE,
Salem, OR 97310
(503) 378-2992 ext 325

- ***Can a public body require prepayment of a public records request?***

Yes. The law permits the public body to do so, and most public bodies request prepayment.

- ***What public records are exempt from disclosure?***

There are specific and limited types of records that are exempt from public disclosure under Oregon public records law. These exemptions are not covered in this Guidebook. Districts should consult ORS 192.501 and 192.502 and the *Attorney General’s Public Records and Meeting Manual* for specific information and guidance.

- ***Where does a person go to petition a review of denial of records in the custody of a public body made up of elected officials?***

According to ORS 192.480, a petition is filed with the circuit court of the county in which the public body is located. Be advised, if the petitioner prevails, the district may be required to compensate the petitioner for litigation cost, including attorney fees.

4. Conflict of Interest

Conservation district officials are sometimes confronted with situations that might be construed as a "**conflict of interest**". A conflict of interest arises when a public official takes official action (a) that could or will create a positive financial impact or (b) to avoid a negative financial effect for any of the following parties:

- a. The official,
- b. The official's relatives, or
- c. A business with which the official or relative is associated.

"Public officials" under ORS 244.020 include conservation district directors, associate directors, employees, and volunteers.

ORS 244.020(15) defines a public official as

"any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services."

There are specific distinctions between potential conflict of interest and actual conflict of interest. In brief:

A *potential conflict* of interest occurs when an action **potentially could affect** the financial interests of the public official, or the official's relatives or associated business.

An *actual conflict* of interest occurs when such action **definitely would** have such an effect.

The definitions of potential and actual conflicts of interest are described in detail in a document entitled, "***Oregon Government Standards and Practices Laws, A Guide for Public Officials.***" The document can be obtained from:

Oregon Government Standards and Practices Commission
100 High Street, SE
Suite 220
Salem Oregon 97310
(503) 378-5105
FAX (503) 373-1456
<http://www.gspc.state.or.us>

- ***How should district officials address potential or actual conflicts of interest?***

The following are some important considerations pertaining to conflicts of interest.

1. All board members should be fully aware of what constitutes a conflict of interest.
2. *"An elected official or person appointed to a board or commission must publicly declare a conflict of interest prior to discussion, recommendation, vote, or other official action on an issue."*
 - Oregon Government Standards and Practices Laws
A Guide for Public Officials
3. The declaration must be recorded in the minutes.
4. The director with the conflict of interest must refrain from participating in discussion and official action.
5. The director with the conflict of interest may not vote except in circumstances where their vote is required to meet the minimum quorum requirements.

Recommendation: Every conservation district should have a copy of the "Oregon Government Standards and Practices, A Guide for Public Officials" document. Board members should review at regularly scheduled board meetings.

B. Contracts and Agreements

1. Contracting Handbook

Conservation districts are required to follow state contracting law (ORS 279.005 through 279.990 and OARs 137-30-000 through 137-35-080). Each district should have a copy of the *Contract Handbook for Soil and Water Conservation Districts*, printed April, 1999. The handbook provides examples of basic contract formats, including:

1. Public contracts,
2. Public works contracts,
3. Personal services contracts, and
4. Architectural & Engineering Contracts.

The handbook is a guide to help districts prepare contracts and utilize a process that complies with state contracting law and federal law (Davis-Bacon Act) where appropriate. For further information, or to request a copy, please contact:

Department of Agriculture
Natural Resources Division
635 Capitol Street, NE
Salem, OR 97301
Phone: (503) 986-4700

2. Review of Draft Contracts and Agreements

When a conservation district prepares a contract, or an agreement, it is encouraged to submit a draft to the Natural Resources Division for review (ORS 568.400). The division can help districts determine if there are any concerns or problems in the contract or agreement, provide guidance to minimize the risk to the district, and help modify the wording of the liability/indemnity portions of the document, if needed.

3. Contract Liability – Loss of Tort Coverage

Tort liability does not apply to liability assumed under a contract. If a district contracts with a person to do something, that person has the same rights as if he had contracted with a private company. If something goes wrong and the district breaches the contract, e.g., it fails to make payment for work performed under the contract, the district could be sued. If that happens, the general liability insurance provided through the Department of Agriculture and the Department of Administrative Service, Risk Management Division **does not apply**. It only covers legal actions involving torts.

4. Hold Harmless/Indemnity Clauses

It is important to include a hold harmless or indemnity clause in contracts and agreements. In doing so the district is stating up front it will not be responsible for any actions by the contractor or others involved in the project that cause damage to others. Any contract or agreement prepared by an entity other than the district should be reviewed carefully to insure that the hold harmless clause does not hold the district accountable for the actions of the other party. Tort Liability Insurance Coverage, provided through the Oregon Department of Administrative Service's Risk Management Division, only covers the district for its representatives' actions, not those of another party.

The standard "Hold Harmless" Clause for conservation district contracts and agreements is:

The district agrees to be responsible for any damage or any third party liability which may arise from its _____ (name of project) subject to the limitations and conditions of the Oregon Tort Claims Act, ORS 30.260 through 30.300, and the Oregon Constitution, to the extent of liability arising out of negligence of the district.

Natural Resources Division staff are available to review the wording of the hold harmless/indemnity clauses in contracts and agreements before the district signs them.

5. Public Funds and Competition

Regardless of the source, all funds received by a conservation district are considered public funds. As public entities, districts are subject to ORS 279 which requires:

ORS 279.005 Policy of competition in public contracts.

- (1) It is the policy of the State of Oregon to encourage public contracting competition that supports openness and impartiality to the maximum extent possible.
- (2) The Legislative Assembly finds that:
 - (a) Competition exists not only in prices, but in the technical competence of suppliers, in their ability to make timely deliveries and in the quality and performance of their products and services and that a balance must exist between performance competition and price competition;
 - (b) The nature of effective competition varies with the product or service being procured and that while competitive sealed bids are a common method of procurement, it is not always the most advantageous or practical method of source selection; and
 - (c) Meaningful competition can be achieved through a variety of methods when procuring products or services. The methods include but are not limited to:
 - (A) Price competition as represented by the initial or acquisition price;
 - (B) Competition as represented by price and performance evaluations of the competing items and suppliers;
 - (C) Competition as represented by evaluation of the capabilities of bidders or proposers to perform needed services;

- (D) Competition as represented by evaluation of the capabilities of the bidders or proposers to perform the services followed by a negotiation on price; or
- (E) Competition as represented by another method of procurement that is reasonably calculated to satisfy the public contracting agency's need.

ORS 279.007 Methods of fostering competition.

- (1) All public contracts shall be made under conditions that foster competition among a sufficient number of potential suppliers that offer a wide spectrum of products and services and that represent a broad marketplace. Fostering competition shall be reflected in:
 - (a) Writing specifications and procurement documents in a simple and easy to read format;
 - (b) Searching for new sources of supply;
 - (c) Attempting to make solicitation documents simple and inviting;
 - (d) Everyday courtesy shown to prospective suppliers and contractors; and
 - (e) The way information on contracting opportunities is provided to suppliers, including but not limited to advertisement in publications of general circulation or the Oregon Department of Administrative Services' electronic bulletin board services, and any other reasonable methods that encourage competition and that are consistent with ORS 279.025.
- (2) A public contracting agency may evaluate every aspect of competition in its effort to purchase products or services, choose the appropriate solicitation process in accordance with the criteria described in ORS 279.005 and arrive at offers that represent optimal value to the state.

6. Commonly-asked Questions About Contracting

- ***At what dollar amount are districts required to seek bids?***
The short answer is that all public contracts shall be based upon competitive bids. At lower dollar amounts the bids can take the form of verbal quotes, but as the dollar amounts increase written bids are required. Districts should refer to the *Contracting Handbook for Soil and Water Conservation Districts* for the specific requirements of dollar amounts:

Public Contracting	Page 23
Public Works Contracting	Page 77
Personal Services Contracting	Page 155

Be sure to keep accurate records on file on all bids and price offers.

- ***Is it permissible to divide a public works project into smaller projects or phases of a larger project in order to avoid the requirements of formal, competitive bidding and prevailing wage?***

No. It is not permissible to divide a public works project into smaller units, particularly if the reason behind it is to avoid compliance with ORS 279.348 to 279.380. However, if some parts of the project appear to be unrelated enough to the total project that one contractor may not be able to do it all, the district should consider them as separate projects right from the start, for contracting purposes.

- ***How long before awarding the contract does the district need to advertise for bids?***

The district needs to give adequate time for prospective contractors to visit the site, if appropriate, review the plans, and develop the costs needed to formulate a bid. Generally, a minimum of two weeks prior to bid opening is needed; a longer period is preferred. Time frames can be shortened to accommodate emergency situations.

- ***How and where does the district advertise for bids?***

It may depend on the size and/or specialized nature of the project. However, area daily and weekly newspapers and contractor's journals are a good source of advertising. If the district has a mailing list of potential contractors, invitations to bid can be sent to them. If the project fits the low dollar amount requiring only oral bids, persons can be contacted by phone. Make sure, in any case, all persons contacted have the same information about the project on which they bid. Check the *Contracting Handbook for Soil and Water Conservation District* for more details.

- ***Does the district need to require a performance bond?***

A performance bond in a sum equal to the contract price is required for all public works contracts in excess of \$25,000. Performance bonds for public works contracts under \$25,000 may be required by the district, but should not be used to discourage competition. Page 129 of the district's Contracting Handbook contains an example. Districts often say requiring a performance bond scares away potential contractors. However, in making the decision on whether or not to require it for contracts under \$25,000, the district should ask itself, "how much money are we willing to lose or gamble on this project if the contractor decides to pull out before the project is finished, does a poor quality job, or requests more funds to complete it?" The performance bond protects the district from financial

loss if the contractor does not perform according to contract specifications.

- ***Does the district need to adhere to prevailing wage rules?***

Yes, all public works projects being done on public land or for public use must comply with the prevailing wage laws and rules of both the state Bureau of Labor and Industries and the federal Davis-Bacon Act. There are some exceptions:

1. Work on private land for private use.

2. Work on publicly-owned land for public use where the project cost does not exceed \$25,000.

3. Projects including federal funds where the federal Davis-Bacon Act applies. If the contract price does not exceed \$25,000, the Bureau of Labor

and Industries does not require that prevailing wages be met, but the Davis-Bacon Act might apply (see Title 29, Part 5 of the Code of Federal Regulations, WH-1244).

Please note: These exceptions were in place at the time of this writing. They are subject to change. **Contractors** need to comply with the current state and federal prevailing wage laws!

- ***Is our conservation district required to have a "Contract Review Board"?***

Yes. Any conservation district that engages in any contracting activities is required to have a Contract Review Board. The district may utilize the services of a "county recognized board" or it may create its own. If the district creates its own, it must adopt and use rules to guide it in its contracting procedures. Many districts that form their own Contract Review Board choose to adopt and use the "Attorney General's Model Public Contract Rules, Division 30 and 40". A copy of the rules can be purchased from:

Oregon Department of Justice
Administrative Services
1162 Court Street, NE
Salem, OR 97310

- ***Does the district always have to award the contract to the lowest bidder?***

No. The lowest bidder may not be able to meet the starting date or completion date requirements, or might have a reputation of poor quality of work, or for other reasons may not be the best choice. If the contract is awarded to someone other than the lowest bidder, the district or the Contract Review Board must be able to clearly justify and document choosing the other contractor.

- ***Can the district contract with the landowner or farmer upon whose land the project is being done?***

Yes. However, the landowner or farmer must be compared along with other available contractors and not given an unfair advantage.

- ***Can a conservation district director or his or her relative bid on personal services or public works contract proposals let by the district?***

Yes. A conservation district director or his or her relative can be considered as a bidder, along with other interested contractors, subject to the following qualifications:

1. The director or his or her relative shall not be given any preference over other prospective contractors by the district board or the Contract Review Board.
2. The director or his or her relative must adhere to the same contracting conditions as other prospective contractors.
3. The director must declare a conflict of interest.
4. The director must excuse himself/herself from any discussions or voting relating to the planning of the project, specifications for the project, decisions to sponsor the project, or participating in the deliberations required to select a contractor for the project.

When awarding a contract to a district director or his or her relative, it is advisable that the district be especially detailed and diligent when assembling documentation supporting the selection of the director or relative for the contract, to assure the public that favoritism has not been practiced. Since there is a risk that the public will perceive the awarding of a contract by a district to a district director or relative as a ***"conflict of interest"***, it is essential that the district follow stringent rule and procedures and provide thorough documentation of its decisions.

7. Contract Review Board, Rules, and Officers

According to the Oregon Attorney General, conservation districts that engage in contracting activities must have a **Contract Review Board**. The district may choose to utilize the services of a review board that already exists in the county or develop its own. The Attorney General's staff suggests districts develop their own and that the entire board of directors serve as the review board. Districts should follow the procedures outlined below to create their own contract review board, establish rules, and appoint a contract officer.

A. Creating a Contract Review Board

1. Adopt a resolution:

- Adopt a resolution at a regular or special board meeting identifying the district board as the Contract Review Board.

2. File resolution:

- Check with county officials to determine with whom the resolution should be filed and in what manner.
- File the resolution as instructed.
- Provide a copy of the resolution to the Natural Resources Division of the Oregon Department of Agriculture.

B. Adopt Rules Governing Contracting Procedures:

- A Contract Review Board must adopt rules governing its procedures. The *Attorney General's Model Public Contract Rules* satisfy current statutory requirements. The guidance provided in the *Contracting Handbook* complies with the Attorney General's model public contract rules.
- The Contract Review Board may (a) adopt the Attorney General's model public contract rules or (b) may develop and adopt its own rules. If a district chooses to develop its own rules, the district needs to understand the process is complex and legal consultation is recommended.
- For copies of the Attorney General's Model Contract Rules, contact:
Department of Justice
Library and Publication Section
1162 Court Street, NE
Salem, OR 97310
Ph: (503) 378-2992

C. Appoint a Contract Officer:

- The Contract Review Board must appoint a director or district employee to act on its behalf as a Contract Officer. It may choose to appoint the person by title or by name. (Example: district chair, district manager, Jim Smith)
- The Contract Review Board establishes the duties of the Contract Officer.
- The Contract Officer should be identified in all "Requests For Proposals" and contracts developed by the district.

D. Appoint a Project Manager (optional):

- If a project manager is needed, one should be selected by the Contract Review Board, based on who is best suited for each project. The Contract Officer may serve as the Project Manager.
- A Project Manager's general responsibilities include:
- Overseeing the project, and making sure it is completed according to the standards and specifications set forth in the contract.
- Make progress reports and payment recommendations to the Contract Officer, Contract Review Board, and the district.
- If a Project Manager is needed for a specific project, the program manager should be identified in the "Requests For Proposals" and contracts developed by the district.

Sample Resolution For Creating a Contract Review Board

PURPOSE:

The purpose of this resolution is to create a Contract Review Board to act on behalf of the _____ Soil and Water Conservation District (SWCD).

RESOLUTION:

WHEREAS the _____ SWCD shall be entering into public services and works contracts with other agencies, corporations, and individuals; and,

WHEREAS a Contract Review Board is needed to develop contracting rules governing the requests for proposals, preparation of bids, contract management, and other duties associated with contracting; therefore,

BE IT RESOLVED that the _____ SWCD, as an entire board, is being designated as the _____ SWCD's Contract Review Board; and,

BE IT FURTHER RESOLVED that this designation has been consummated through at least a majority vote of the _____ SWCD board on the date indicated below; and,

BE IT FURTHER RESOLVED that the _____ SWCD board's action has been certified through the signature of the district board's Chair as shown below.

This resolution will be filed with the _____ County governing body and the Oregon Department of Agriculture, Natural Resources Division.

(District Seal)

(District Chair)

C. Vehicles

1. District Vehicles

When purchasing a vehicle, it is important to remember that district funds are public funds. Therefore, the district must use a competitive process when purchasing a vehicle. Conservation districts are eligible to purchase state surplus vehicles, and should contact the Oregon Department of Administrative Services, (503) 378-4714, <http://www.das.state.or.us/surplus> for more information. If the district chooses to purchase a new or used vehicle, it should seek at least three (3) bids or price quotes on the equivalent vehicle from different vendors.

A. Insurance Coverage for Conservation Districts

All conservation district directors, associate directors, employees, and volunteers are provided tort liability coverage under the state's self-insurance program. The Oregon Department of Agriculture Natural Resources Division pays the required charges to the state's Risk Management Division for this coverage. Every two years the department provides each conservation district a copy of the following documents:

- | | |
|--|----------|
| 1. District Insurance Certificate | 1 page |
| 2. "Local Government Self-Insurance" document | 12 pages |
| 3. Uninsured Motorist Endorsement #1 | 1 page |
| 4. Personal Injury Protection – Endorsement #2 | 4 pages |

District directors and staff should review and become familiar with the documents and the provisions of this coverage, and be clear about what is covered and what is not. The information in the documents will be helpful when determining what additional insurance is needed or desired at the district. Conservation districts may contact the Oregon Department of Agriculture Natural Resources Division for copies if needed.

B. Insurance Coverage For District-Owned Vehicles

Under the Oregon Responsibility Law every Oregon driver is required to carry a minimum coverage of automobile insurance. Conservation district representatives are covered by state's self-insurance policy and are provided liability protection under the Oregon Tort Claims Act, 30.260-30.300 while operating a district-owned vehicle. If a conservation district wishes to obtain its own comprehensive automobile insurance for collision, fire, theft, replacement, and other costs, it needs to purchase the additional insurance coverage through a private carrier.

C. Oregon Tort Claims Act Exclusions

Be advised there are some exclusions in the Oregon Tort Claims Act, ORS 30.260 - 30.300. Specifically, the limits and protections of the Oregon Tort Claims Act do not apply when conservation districts operate vehicles or work outside the State of Oregon. If districts are operating vehicles and/or conducting business outside of the State of Oregon, they should consider purchasing extra liability insurance that would cover claim costs exceeding the limits provided under the state's policy.

There are additional exclusions identified on pages 4-5 of the "Local Government Self-Insurance" document. Some conservation districts may choose to purchase additional insurance to cover identified exclusions that affect their district (such as the use of watercraft over 25 feet.) Districts should consult with insurance providers to determine additional insurance needs and coverage requirements.

2. Use of Personal Vehicles

All districts should have policies and procedures regarding the use of personal vehicles for official district business. These policies and procedures apply to directors, associate directors, directors emeritus, staff, volunteers, and any other agents of the district. The following items are recommended to be addressed in district policies:

- A. Licensing and insurance documents (i.e., drivers license, vehicle registration, insurance, etc.)
- B. Accident/claim reporting requirements and procedures
- C. The conditions under which vehicles can be used (what is official business?)
- D. Reimbursement rates
- E. Mileage documentation requirements
- F. Safety requirements, equipment, and/or inspection of vehicles (seat belts, operational standards, life jackets, etc.)
- G. Clarification that district is not responsible for repairs and/or maintenance

If the conservation district is paying mileage costs for an employee or director to use his or her personal vehicle for official district business, and an accident occurs, whose insurance pays?

A person's own automobile insurance takes first position in the event of a claim. If the limits of the person's insurance are exceeded, then the liability coverage from the state takes second position and covers the damages up to established policy limits. As a risk management practice, conservation districts should require proof of insurance from those people using personal vehicles for official district business.

3. Use of State or Federally-owned Vehicles

Conservation districts often ask about the insurance requirements when using USDA Natural Resources Conservation Service (NRCS) or other non-owned vehicles. Per the advice of NRCS, conservation districts should refer to guidelines and references to this subject in the NRCS General Manual 120, part 405 subparts C, section 405.23(m)(1&2), and NRCS National Bulletin NO. 120-1-3. This information states that NRCS may loan vehicles to conservation districts and that all loans require a formal written agreement. National Bulletin NO. 120-1-3 also states, "If vehicles are loaned to a district, the district must carry property damage and bodily injury liability insurance policy, and shall include the United States as an insured there under." Conservation districts need to work closely with NRCS to clarify under what conditions the NRCS is loaning a vehicle to the district and under what conditions the district is using the vehicle to assist with NRCS official business.

Under the state's self-insurance policy, conservation districts are provided liability coverage when using state or federally-owned vehicles. However, coverage is not provided for physical damage of vehicles operated by the district, regardless of whether the district, NRCS, another person, or company owns the vehicle. If a conservation district borrows or rents a vehicle, and has an accident that is determined to be the district's fault, then the district will likely be responsible for the repair or replacement costs of the vehicle. This could prove to be an extreme financial hardship for some conservation districts.

Therefore, conservation districts may wish to consider purchasing physical damage insurance coverage for any state or federally-owned vehicle it uses, or any other vehicle it rents or borrows. The physical damage coverage the district needs to purchase is **commercial auto insurance, which includes non-owned auto coverage.** When the district attempts to obtain such an insurance policy, the potential insurer may suggest that the district needs liability insurance, not physical damage insurance. However, conservation districts are covered for liability under the state self-insurance policy. It is not liability coverage that the district needs to purchase; it is the extra insurance for collision, fire, theft, replacement, and other costs that may need to be purchased.

4. Leasing and Renting Vehicles

Conservation districts are eligible to lease vehicles from the State Motor Pool. In doing so a district must enter into an "Intergovernmental/Interagency Agreement For The Cooperative Provision and Use of Vehicle Fleet and Motor Pool Services" with the State Motor Pool. Any conservation district considering leasing a State Motor Pool vehicle is urged to be sure it has reviewed the

agreement carefully, particularly with respect to the kinds of comprehensive automobile insurance that might be needed.

The State Motor Pool will require the district to provide to the Oregon Department of Administrative Services a "certificate of insurance" showing that the district carries comprehensive collision, fire and theft insurance. Most of these kinds of insurance policies "total" out vehicles at blue book value at the time of the accident. The Interagency Agreement provided by the State Motor Pool, however, may state that the lessee will replace the "totaled" vehicle at a "new car value", which means the district would need to provide the difference in cost between the insurance settlement and the price of a new, replacement vehicle.

When leasing a vehicle from the State Motor Pool, or any other source, be sure the district knows what level of coverage is needed to meet the requirements of the agreement, and determine if the district can afford the additional cost for insurance, before deciding to sign the agreement.

5. Licensing

Since conservation districts are not state agencies, they are not required to have an E license plate number on their district-owned vehicles. When the district obtains a license plate from the Driver and Motor Vehicle Services (DMV) for a district-owned vehicle, it can choose whether to get the E plate. The E license plate is generally less expensive.

Recommendation: Each conservation district should develop its own written policies on how its equipment may be used, rental schedules, where it's to be stored, etc. Refer to the *Oregon Government Standards and Practices Laws, A Guide For Public Officials*, for clarification of issues related to potential equipment misuse. This document can be obtained from: Oregon Government Standards and Practices Commission, 100 High Street, SE, Suite 220, Salem, OR 97310.

D. Equipment

1. Equipment Accountability

All equipment purchased by a conservation district is **public property**. The conservation district is responsible for keeping an up-to-date inventory of this equipment, its use, and its location (e.g., where it is stored, or who is using it and how). As outlined in the *Oregon Government Standards and Practices Laws*, public officials are *prohibited* from using public equipment for personal purposes. District resource use must be consistent with

appropriate district policy to avoid actual or perceived misuse of public equipment.

2. Equipment Insurance

The state Risk Management Division, Department of Administrative Services, does not provide *property insurance* for conservation districts. The district needs to determine whether it wishes to purchase appropriate property insurance for equipment, tools, etc.

3. Purchase and Sale of Equipment

Conservation districts have two primary options for selling equipment they no longer need:

Option #1

The conservation district may sell its equipment itself, seeking bids locally. If this option is used the district must be very careful not to be "in conflict of interest", and must be ethical in how it goes about the sale and/or bid process.

Example: A direct sale to a district director or friend of the family may be considered both a conflict of interest and unethical. All interested persons must have an equal opportunity to bid on the item for sale. Items for sale should be advertised for at least two weeks.

Option #2

The conservation district may choose to enter into an Intergovernmental Agreement with the Oregon Department of Administrative Services, in which the department takes care of everything from advertising to the actual sale. The equipment can be left at the local site, but the sale would be handled through the Department of Administrative Services in Salem, and the funds would go to the district. This option takes away the risk of a conflict of interest and the potential for an ethics violation from the district, since the Department of Administrative Services will manage the sale process.

Districts need to be clear about any conditions of funding sources for equipment.

4. Purchase of State Surplus Equipment

Conservation districts are eligible to purchase state surplus equipment. Before doing so, however, it is necessary to complete an eligibility application form, which designates authorized signers for the district. For more information regarding state surplus equipment, contact:

E. Insurance/Risk Management

1. Risk Management Concepts

All individuals, small companies, corporations, and various types of governments assume risk when conducting business. Conservation districts, like any other entity, assume and expose themselves to certain types of risk while acting as a local unit of government, an employer, and in other roles they assume (landowner, contractor, etc.). Conservation districts can employ different techniques and methods to manage and reduce their exposure to risk.

The Risk Management Division of the Department of Administrative Services has developed a 25-page publication titled "*Managing the Rapids of Risk, Accessories for Protection*." Each conservation district should have a copy of this document in their office. Additional copies of the publication are available from the Oregon Department of Agriculture, Natural Resources Division. The publication provides information regarding:

1. The Role and Purpose of the Risk Management Division.
2. The Oregon Tort Claims Act.
3. The State Liability Self-Insurance Plan and Coverage Limits.
4. Self Insurance Policy Exclusions.
5. Risk Management Suggestions for Conservation Districts.

Risk management must be an integral part of conservation district activities. The strategies districts develop to minimize risk will help guarantee continued operations. Risk assessments are valuable tools for districts to use. Risk assessments can be done at anytime and by anyone. They help identify and develop strategies to eliminate or minimize risk.

The following excerpts from "*Managing the Rapids of Risk, Accessories for Protection*" outline the six steps to conduct a risk assessment:

A) What are your district's activities?

- ✓ What will you be doing?
- ✓ Where will it be done?
- ✓ What materials or substances will be used?

B) Who will be performing these activities?

- ✓ Are they your agents, employees, board members, or volunteers?
- ✓ Are they independent contractors or employees of the district, county, city, or municipality?

- C) What are the risks associated with these activities?**
- ✓ Injury to your agents, employees, board members, or volunteers?
 - ✓ Injury to others covered by their employer's workers' compensation coverage?
 - ✓ Injury to third parties.
 - ✓ Third-party property damage.
- D) Rank risks.**
- ✓ What is the chance of a loss occurring: high, medium, or low.
 - ✓ How much might this loss cost?
- E) How are these risk covered?**
- ✓ Are they covered by the state tort liability policy?
 - ✓ Is there a contract with the service provider? Does the contract transfer the risk and require insurance coverage?
 - ✓ Do you have a commercial insurance policy covering the risk?
 - ✓ Is the risk so low that it can be uninsured?
- F) Are there other ways to minimize the risk?**
- ✓ Are the participants properly oriented and trained?
 - ✓ Is supervision required?
 - ✓ Are there clear expectations?
 - ✓ Are there policies and procedures?
 - ✓ Are the duties clearly delineated?
 - ✓ Are you acting in good faith?
 - ✓ Are you following reasonable professional and industry standards? Is it best to use an experienced professional in this case? What level of professional or industry standard is needed? Are you meeting this standard?
 - ✓ Are you a good neighbor? Have you addressed community concerns? Do neighbors know when and where the activity will begin? Do they know how the task will be accomplished and the length of the project?
 - ✓ Do all participants recognize and know how to handle endangered species and culture resource issues?
 - ✓ Have you filed a permit with U.S. Fish and Wildlife for exemption from accidental or unintentional "taking" of an endangered species?

2. Policies and Procedures

A common way to reduce and/or transfer risk is develop and adopt district policies and procedures. Policies and procedures are the self-imposed written rules and procedures under which the district directors, staff, and volunteers

operate. Policies and procedures should be developed for many areas of district operations. Some areas may include:

Personnel Management	Orientation and Training
Financial Management and Budgeting	Long-range Business Planning
Equipment and Vehicle Use	Ethics and Conflict of Interest
Roles of Directors and Officers	Roles of Associate Directors
Volunteers	Public Contracting
Parliamentary Procedure	Meeting Management
Public Records Requests	Communications
Agreement with Partners	Memorandum of Understanding
Fund Raising	Campaigning
Risk Management	Sexual Harassment Prevention
Safety	Americans with Disabilities Act
Drug and Alcohol Use	Entry on to Private Property

At a minimum, conservation districts should begin by developing policies and procedures in the following three areas:

A. Personnel Management

Every conservation district that has employees, or is considering hiring employees, should develop and adopt personnel policies and guidelines. This topic is covered in greater detail in *Chapter IX – District as Employer*. The Oregon Department of Agriculture, Natural Resources Division developed a *Personnel Management Handbook for Soil and Water Conservation Districts*, published in 1998. Each conservation district should have a copy in its office. This handbook can be adopted as a district's personnel guidebook or used as a framework for developing a district's own personnel policies and procedures. Other examples of personnel policies and guidebooks are also available from other sources such as the Special Districts Association of Oregon. Districts may contact the Oregon Department of Agriculture, Natural Resources Division for copies of the guidebook or to request assistance in developing personnel management policies.

B. Sexual Harassment Prevention

The Oregon Department of Agriculture's Natural Resources Division developed a *Sexual Harassment Guide for Soil and Water Conservation Districts*, which was mailed to every district in January, 1999. The document explains the law and provides step-by-step guidance on the responsibilities of conservation district boards as Employers of Record, informal and formal complaint processes, district board and director liability, and the need for every district board to establish its own Sexual Harassment Policy. When a harassment situation arises in a

conservation district, it is the responsibility of the district board to resolve it, not the responsibility of the Department of Agriculture.

If a complaint is filed and a director is found guilty, he/she may be personally liable for the costs associated with any fine that is levied. Directors may also be found liable if they knew, or should have known, about the circumstance and did nothing about it.

C. Drug and Alcohol Use Policy

All conservation districts are encouraged to develop drug and alcohol use/abuse policies. Be advised that some funding sources, such as federal funds, may require a district to have written policies regarding drug and alcohol use/abuse and put these policies into practice.

Districts may refer to the Oregon Department of Agriculture the Special Districts Association of Oregon for sample alcohol and drug policies.

3. Tort/Tort Liability Insurance Coverage

A. Definition of a Tort

Tort is defined as a wrongful act, injury, or damage (not involving a breach of contract), for which a civil action can be brought. ORS 30.260 defines a tort as the breach of a legal duty that is imposed by law, other than a duty arising from contract or quasi-contract, the breach of which results in injury to a specific person or persons for which the law provides a civil right of action for damages or for a protective remedy. Conservation districts are provided protection from Tort, for their actions while doing district business, through tort liability insurance coverage.

B. Extending State Tort Liability Coverage

The state covers its employees, agents, and volunteers. Coverage is rarely provided to non-state entities and often requires legislative approval. In fact, Soil and Water Conservation Districts and Watershed Councils are the only non-state entities with state policies. Authorization to extend this policy is granted by the Oregon Legislature.

C. Insurance Coverage for Conservation Districts

All conservation district directors, associate directors, employees, and volunteers are provided tort liability coverage under the state's self-insurance program. The Oregon Department of Agriculture, Natural Resources Division pays the required charges to the state's Risk Management Division for this coverage. Every two years the department provides each conservation district a copy of the following documents:

- | | | |
|----|---|----------|
| 1. | SWCD Insurance Certificate | 1 page |
| 2. | "Local Government Self-Insurance" document | 12 pages |
| 3. | Uninsured Motorist Endorsement #1 | 1 page |
| 4. | Personal Injury Protection – Endorsement #2 | 4 pages |

District directors and staff should review and become familiar with the documents and the provisions of this coverage, and be clear about what is covered and what is not. The information in the documents will be helpful when determining what additional insurance is needed or desired at the district. Conservation districts may contact the Oregon Department of Agriculture, Natural Resources Division for copies if needed.

D. Oregon Tort Claims Act Exclusions

Be advised there are some exclusions in the Oregon Tort Claims Act ORS 30.260 - 30.300. Specifically, the limits and protections of the Oregon Tort Claims Act do not apply when conservation districts operate vehicles or work outside the State of Oregon. If districts are operating vehicles and/or conducting business outside of the State of Oregon, they should consider purchasing extra liability insurance that would cover claim costs exceeding the limits provided under the state's policy.

There are additional exclusions identified on pages 4-5 of the "Local Government Self-Insurance" document. Some conservation districts may choose to purchase additional insurance to cover identified exclusions that affect their district (such as the use of watercraft over 25 feet.) Districts should consult with insurance providers to determine additional insurance needs and coverage requirements.

E. Authority to Purchase Coverage

ORS 568.600(16) authorizes conservation districts to purchase additional liability insurance coverage.

5. Commonly-Asked Questions

A. *Is tort liability insurance coverage provided for conservation districts?*

Yes. All Oregon conservation districts have a Local Government Liability Policy through the state of Oregon's Risk Management Division. The policy is subject to the Oregon Tort Claims Act, ORS 30.260-30.300, and the Oregon Constitution.

B. *Who pays for the coverage?*

The Oregon Department of Agriculture pays the insurance premiums, through legislative appropriation to the Natural Resources Division budget.

C. *Who is covered?*

All conservation district directors, associate directors, directors emeritus, employees, and volunteers are covered who fit any of the following criteria:

1. All conservation district directors, associate directors, directors emeritus, and employees who are under the direction of the board.
2. All conservation districts volunteers involved in district projects. A "volunteer" is a person who
 - the conservation district appoints to perform official district business
 - receives no compensation for this service
 - works at the conservation district's request or consent under the conservation district's direction and control

NOTE: In order to make sure that volunteers are covered under tort liability insurance, board action appointing the volunteer should be reflected in board minutes, and all volunteers should sign a volunteer agreement. This agreement should be kept on file.

3. Watershed council staff who are employed by the conservation district and get direction from the conservation district board and staff.

D. *When does coverage begin?*

- Coverage for conservation district directors begins when an elected or appointed director takes the "Oath of Office" at a district board meeting and it is recorded in the district's board meeting minutes.
- Coverage for an associate director or a director emeritus begins when the conservation district board votes to appoint a person to that position. The board meeting minutes should reflect the name of the person who has been appointed to the associate director or director emeritus position.
- Employee coverage begins on his or her employment starting date.
- Volunteers become covered on the date a signed Volunteer Agreement form is received by the conservation district. The board meeting minutes should reflect the volunteer's appointment and should specify the terms of volunteer service, including tasks, length of service, etc.

E. *Are participants in conservation district-sponsored activities or field trips on private property covered?*

Before conducting a field trip it is important for the district to determine who is covered and who isn't. Only those conservation district-related persons who are normally covered by the tort liability insurance are covered on a field trip. State and federal agency participants in field trips have coverage through their agencies, but other individuals may not be covered. The district should ask them to sign a "Field Trip Waiver of Liability" before accepting them as participants in the field trip. A sample field trip waiver of liability description follows this segment on "commonly asked questions".

Also, the person on whose property the field trip occurs is not covered by the conservation district's liability insurance. The district should always verify with the property owner that he/she has adequate comprehensive liability insurance coverage before plans for the field trip are finalized.

F. *Is the district's tort liability insurance coverage in effect when district officials are driving a district, state, or federal vehicle on district business?*

Yes.

G. *Is the district's tort liability insurance coverage in effect when district officials are driving a personal vehicle on district business?*

Yes. Anyone driving a personal vehicle on district business must also have his/her own liability coverage, at least to the minimum required by Oregon law. Districts should be aware that private insurance pays first in the event of a claim.

H. *Does the conservation district's liability insurance coverage include physical damage insurance coverage?*

No. The tort liability insurance coverage is only for liability. The conservation district must obtain physical damage insurance coverage when using district, state, or federal vehicles. The conservation district must purchase a commercial auto insurance policy which includes non-owned auto coverage. Be aware that some potential insurers may tell the conservation district that a commercial auto insurance policy which includes non-owned auto coverage is a liability policy, not a physical damage policy, but the Risk Management Division will verify that it is a physical damage insurance policy, not a liability insurance policy.

I. *What state agency administers the tort liability insurance program?*

The Risk Management Division of the Department of Administrative Services, (503) 378-5526 or (503) 373-1037.

J. *What are the coverage limits?*

Limits mirror Oregon Tort Claims Act Limits

- **\$50,000** for third-party property damage.
- **\$100,000** for third-party general and special damages (i.e. medical bills, pain, suffering, and inconvenience). An additional \$100,000 for special damages.
- **\$500,000** for any number of claims arising out of a single accident or occurrence.

Plus unlimited defense cost.

K. *What isn't covered?*

- Criminal complaints or actions.
- Acts not arising in the performance of duty.
- Slander.
- Malfeasance in office or for acts due to willful or wanton neglect of duty or which were committed maliciously with intent to injure.
- For the assumption of liability to another party because of negligence, unless a written agreement was entered into prior to a loss.
- Workers' compensation.
- Public Meetings Law violation claims.
- Protective relief actions.
- Pollution.
- Aircraft.
- Watercraft over 25 feet in length.
- Personal property.

NOTE: Districts should work with their private insurance carrier to determine what additional insurance coverages are needed for their specific program.

L. *What should the district do in the event of an accident or occurrence, or if someone makes a claim or suit against it?*

1. Notify the Risk Management Division and the Department of Agriculture, Natural Resources Division, in writing of an accident or occurrence that may result in a claim. Include how, when, and where the occurrence took place, and the names and addresses of any injured persons or of any witnesses.

2. Notify the Risk Management Division and the Oregon Department of Agriculture promptly of any actual claims or suits. Send copies of demands, notices, summons, or legal papers received.

Send to: Risk Management Division	SWCD Program Manager
Department of General Services	Department of Agriculture
Old Executive Building	Natural Resources Division
155 Cottage St., SE	635 Capitol St., NE
Salem, OR 97310	Salem, OR 97301-2532
(503) 378-5526	(503) 986-4705

3. Cooperate with the Risk Management Division in the investigation, settlement, or defense of the claim or suit.

M. *When will the state represent me in a lawsuit?*

The tort liability insurance contract policy provides that the Department of Administrative Services will provide defense for any public official, employee, or agent from any tort claim or demand which on its face arose out of an alleged act or omission occurring in the performance of duty except as described below. If it is unclear whether the claim arose from a district's representative's duties, the Attorney General will tell the district early in the investigation if he will defend the district. Once the state decides to defend the district, it will continue to defend the district unless the district fails to cooperate in the investigation, or acts to prejudice the case.

Under certain circumstances individuals are personally liable for their actions. Being personally liable means an individual pays his or her own attorney, court costs, settlements, judgments, and other expenses. Some clear cases of personal liability include, but are not limited to:

1. Charge of ethics violation.
2. Traffic or motor vehicle citations.
3. Charge of criminal act or criminal contempt.
4. Wrong allegedly done when an individual was acting outside the scope of his or her district employment or board position.
5. When the alleged wrong, if true, constitutes intentional harm, a willful neglect of duty, malfeasance in office, or gross recklessness.
6. Failure to cooperate or acting to prejudice the state's defense.
7. Professional licensure sanctions, complaints, or discipline.
8. Payments of transfers of state funds or property in violation of the law.
9. Negligent or willful damage or loss to state assets.

Sample Waiver

I, _____ (guest name) _____, hereby request permission of the _____ Soil and Water Conservation District to allow me to accompany the district as a participant in its _____ (name) _____ field trip on (date) _____. I have been made aware and I understand that, by participating in this field trip, I am not protected by the district's Tort liability insurance coverage. I knowingly and voluntarily assume any and all risk associated with my participation in this field trip. I also agree that in the event of any accident, illness, or incapacity, or death associated with my participation in the field trip, I or my estate will assume and pay for all of my medical and emergency care expenses and any other costs arising from any damage, loss, or injury to my property or person.

In exchange for permission to participate in this field trip, I hereby release and hold harmless the State of Oregon and its agencies, officers, employees, and agents, including the _____ Soil and Water Conservation District, from any or all actions, claims, or demands whatsoever that may arise out of my participating in the field trip. I intend this release and hold harmless agreement to forever bind myself as well as my estate, personal representatives, guardians, conservators, parents, heirs, executors, administrators, or assigns. I hereby agree to the terms and conditions set forth above for this field trip.

By my signature below, I hereby represent that I understand and consent to the terms, conditions, and release from liability pertaining to the _____ field trip sponsored by the _____ Soil and Water Conservation District.

Signature (Guest)

Date

District Witness

Date

This release from liability can be used for other programs, in addition to field trips, simply by changing the words, "field trip" to "program".

6. Oregon Department of Agriculture Assistance to Districts

If a legal issue, or potential legal issue, arises in a conservation district, the Natural Resources Division of the Oregon Department of Agriculture should

always be contacted. Division staff may be able to direct the district to sources of assistance or to resources about which the district might not be aware. In recent years, the Division has developed a number of handbooks for conservation districts that provided direction on how to proceed when dealing with specific issues. Division staff can often direct the district to the appropriate chapter in a specific handbook for guidance on how to solve a problem locally.

Depending on the nature of the issues, the following are other agencies that may be able to help a district work through a local problem:

Bureau of Labor and Industries 800 NE Oregon, No. 32 Suite 1070 Portland, OR 97232 Phone: (503) 731-4200 http://www.boli.state.or.us	Oregon Department of Revenue 955 Center Street NE Salem, OR 97301-2555 Phone: 503-378-4988 Toll Free: 1-800-356-4222 http://www.dor.state.or.us
Secretary of State's Elections Division 141 State Capitol Building Salem, Oregon 97310 Phone: (503) 986-1518 http://www.sos.state.or.us	Secretary of State's Audits Division Public Service Building Suite 500 255 Capitol Street NE Salem OR 97310 Phone: 503-986-2255 http://www.sos.state.or.us
Department of Administrative Services Risk Management Division. 1225 Ferry Street SE U150 Salem, Oregon 97301-4287 Telephone: (503) 373-7475 http://www.risk.das.state.or.us	Special Districts Association of Oregon P.O. Box 12613 Salem, OR 97309-0613 Phone: (503) 371-8667 Toll Free: (800) 285-5461 http://www.sdao.com

7. Attorney General Legal Counsel

ORS 568.600(1) states that conservation district "directors may call upon the Attorney General for such legal services as they may require." What that statute does not say is that the district must pay for the services rendered, including, but not limited to:

- Telephone calls
- Research
- Opinions
- Staff time not associated with tort claim
- Other assistance as needed.

Districts need to place all requests for Attorney General assistance through the Natural Resources Division. In addition, the division staff keeps a record of all Attorney General Opinions relating to conservation districts.

F. Miscellaneous

1. Photo Identification Cards

Conservation district directors, associate directors, and employees are eligible to obtain a government Identification Card. The use of an Identification Card sometimes allows the district to purchase items at a reduced rate. There are several steps the district must follow to get Identification cards:

1. Submit a letter to the Natural Resources Division, Oregon Department of Agriculture, requesting a letter from the department to the Department of Motor Vehicles authorizing the issuance of a card to certain district representatives. The letter must list the names and titles of each person for whom the district is requesting authorization.
2. A Natural Resources Division representative will prepare a letter to the Department of Motor Vehicles, for each district person listed, which tells the Department of Motor Vehicles what should be printed on the Identification Card. The letter will include information for four lines on the card:

Line 1:	District Person's Name
Line 2:	Title
Line 3:	District Name
Line 4:	Oregon Department of Agriculture
3. The Natural Resources Division will mail the letter for each district representative to the conservation district office, who will then provide them to the persons for whom they were prepared.
4. The district person must take the letter to a local Department of Motor Vehicles office to pay a small fee, have a photo taken, and the plasticized card made.
5. The district person must then report back to the district office manager that the card has been obtained.
6. When a card holder leaves the service of the conservation district, the Identification Card must be returned to the district.

G. Changing District Name or Structure

1. Changing District Name

ORS 568.555 defines the process to change the name of a conservation district. Upon approval of the Oregon Department of Agriculture, the directors of a district may submit to the Secretary of State a proposed name change for the district. The Secretary of State verifies the new name is not identical to another district name, or so similar as to lead to confusion or uncertainty with another district, and records and issues to the district a new Certificate of Organization bearing the new certificated name.

2. Zone Boundary Changes

ORS 568.560 states, "To insure proper representation of all the people in the district and to facilitate district functions, the department shall provide for the zoning of each district, and shall provide at each election for the proper and equitable representation for each zone." The statute allows the department to consider requests for zone changes submitted by districts.

The procedure for this is outlined in OAR 603-71-025. "Each soil and water conservation district board of directors shall prepare a map of the district, indicating the board's proposed zones. After preparation of said zone map, the same shall be submitted to the department, which shall review for compliance with ORS 568.560. The department shall notify each soil and water conservation district board of directors of the approved zoning of the district."

The above ORS and OARs do not state how zones are to be determined, only for proper and equitable representation. In order for a conservation district to change one or more zone boundaries these steps must be followed:

1. The district board determines what zone boundary changes are needed.
2. The district board develops a map showing the proposed new boundaries. The proposed zone boundary changes must be approved by official board action.
3. The district submits a request for the proposed boundary change to the Natural Resources Division of the Oregon Department of Agriculture. The request must include:
 - Map showing proposed boundary changes.
 - Letter of explanation of the boundary changes.
 - Documentation of board action approving the request for boundary changes.

4. The department acts on the request. If approved, the district must provide (1) a copy of the new zone boundaries map and (2) a list identifying the current director representing each zone to the local County Clerk and to the department.
5. The new zone boundaries go into effect when the above steps are completed.

3. District Boundary Changes

The legal process to change boundaries of conservation districts is set forth in ORS 568.430 and 568.445 and is different from other special districts. Districts interested in modifying boundaries should contact the Natural Resources Division to obtain assistance with the procedure.

4. Consolidation of Districts

ORS 568.450 through 568.470 describes the process to consolidate conservation districts. The procedure to consolidate districts may be initiated by:

- A. Petitions to consolidate signed by any 25 or more owners of land within the districts affected and filed with the Oregon Department of Agriculture; or
- B. Resolutions to consolidate adopted by the board of directors of each district to be affected by the consolidation and filed with the Oregon Department of Agriculture.

If the districts affected choose to utilize the resolution process for consolidation the following steps apply:

- A. Hold joint informational meetings among the districts affected, to discuss the pros and cons of consolidation. (Not required by law but highly recommended by the Department of Agriculture.)
- B. The affected districts should consult with county officials on how to appropriately rezone the new, consolidated district.
- C. Each district must approve and submit a resolution to consolidate to the Director of the Oregon Department of Agriculture. Reasons supporting the consolidation must also be provided.
- D. If acceptable resolutions are received from all affected districts, the Oregon Department of Agriculture conducts a public hearing on the matter. Each district must place a legal notice of the hearing in a

newspaper of general circulation within the district, for two successive weeks, one or two weeks prior to the date of the hearing. Testimony is taken at the hearing and recorded by the hearings officer provided by the department.

- E. The department must approve the map and narrative of the new zone boundaries prior to voting on the proposed consolidation.
- F. The process continues unless 10% of the landowners, or 10 landowners, whichever is the lesser, in any of the affected districts objects at the hearing or provides written objections to the department within 30 days after the hearing.
- G. If the process continues, each board of the affected districts must approve, within 60 days after the hearing, the consolidation and the new proposed zone boundaries by at least a 2/3 vote.
- H. The issue must go to a vote of the public or by referendum if objections exceed the levels identified in item (e) above, or if one of the affected district's boards does not register a 2/3 majority vote for consolidation.
- I. If the consolidation is approved by either method above, the department will send a *consolidation notice* to the Secretary of State signed by the department Director. The Secretary of State then issues a Certificate of Consolidation.
- J. Within 30 days after the Secretary of State issues a *Certificate of Consolidation*, the boards of the consolidated districts shall hold a joint meeting and, if a quorum is present, the current directors elect seven directors of the new board. All rights, properties, and liabilities are assumed by the new board.
- K. The new district board must notify the County Clerk and the Oregon Department of Agriculture, Natural Resources Division, of the names of the new directors and the zones/positions they represent immediately after the new board is formed.

SAMPLE RESOLUTION

Pertaining to the consolidation of districts

Whereas, _____ Soil and Water Conservation District and
_____ Soil and Water Conservation District share similar climactic

and geomorphic conditions, similar soil and water resource problems and conditions, and similar socio-economic conditions, and

Whereas, _____ Soil and Water Conservation District and _____ Soil and Water Conservation District are aware of duplication of efforts and services by employees, duplication of deliberation by each board of directors and increased workload by both staff and volunteers, and

Whereas, many cooperators own and manage land in both _____ Soil and Water Conservation District and _____ Soil and Water Conservation District,

Therefore, be it resolved that the board of directors of the _____ Soil and Water Conservation District supports the formation of a consolidated district, to be known as _____ Soil and Water Conservation District, to more efficiently and effectively serve the area presently represented by _____ Soil and Water Conservation District and _____ Soil and Water Conservation District.

DATED this ____ day of _____, 20__.

Director

Director

Director

Director

Director

Director

Director

V. Plans and Planning

To develop and maintain an effective program, directors must identify local conservation needs (resource concerns); set corresponding goals; develop plans with clear, measurable objectives toward those goals; ensure implementation; monitor programs or projects during their implementation; and evaluate results. Planning is the basic tool to develop conservation district programs. ORS 568.554 requires two plans: a long-range plan and an annual work plan.

A. Planning Concepts

Planning is predicated on comparing two defined points: “what is” against “what should be”. Other ways to express this concept are:

- “Where we are” compared to “where we want to be”
- “This is bad” compared to “that would be good”
- Getting from “here” to “there”
- “What we have” versus “what we want”
- “What we don’t want” compared to “what we do want”

“What is” descriptions are also known as problem statements, descriptions of resource concerns, or something identified as being below standard. The “what is” conditions or situations are usually determined to be unacceptable, illegal, not working, or undesirable to the degree that corrective action is needed. Someone has to decide to take action to change the “what is” condition in the direction of “what should be”.

“What should be” statements define desirable conditions or situations that currently do not exist and toward which effort should be made. We also call them goals, objectives, desired outcomes and results, and prescriptions (as defined in laws, rules, requirements, adopted minimum standards, etc.).

One important factor is that “what is unacceptable” and “what should be” are often **value judgments**. Describing “what is” in great detail does not necessarily mean anyone wants to change it. Someone has to **declare** that “what is” is a problem (a condition so unacceptable that resources should be mobilized to change it) and that “what should be” will be worth the effort and expense to achieve. Problem descriptions and supportive data alone will not automatically lead to such conclusions. Some questions to answer are: “When

is the problem “bad enough”? At what point are improvements “good enough”? How much is “too much” or “going too far”?

Therefore, a critical part of planning is **ACHIEVING CONSENSUS** on:

1. The extent and seriousness of undesirable conditions.
2. The quality and quantity of desired outcomes.
3. The general approaches, strategies, and methods to be used.
4. The types, amounts, and cost of resources necessary to obtain the desired outcomes.
5. The probability or feasibility of success.

In addition, goals and objectives, monitoring and evaluation standards and procedures, record keeping, reporting, and budgets will be easier to develop, if the beginning conditions and desired results are clearly defined. For example, one can only monitor progress if one knows where one started and the desired destination. One cannot evaluate the impact of a program without knowing what existed when it started and what it intends to achieve as final outcomes.

B. Needs Assessments

Before developing plans, the district must assess and define the conservation problems and needs (resource concerns or issues) within the district. Landowners and operators, and those who work with them, are valuable sources of information. Since the conservation district is a public agency, it should consult with the community as well. This can be accomplished through public information meetings, requesting input through a watershed council, or any other method to obtain public opinion. Plan the district’s approach to provide factual information to the citizens.

Obtaining public input may be time-consuming. However, the directors were elected to represent all the people in the community or district, and taking time to obtain the public’s input will pay dividends in the long run.

Identify both current conservation problems and other problems likely to occur in the future. As conservation leaders, directors should evaluate how well the public understands the future consequences of actions taken today.

While it is vital to identify the problems and needs to be addressed, it is equally important to identify the condition of the resources the public desires. It is important to ask, “What do you want your watershed to look like? What do you want to see? What do you want the water to be like, the land to look like, the conditions of wildlife, fish, wetlands, etc.?” A complete needs assessment does

more than describe problems; it also paints the picture of what people want to see. If one can compare these two pictures, one can better determine needs: “What needs to be fixed? What needs to be done? How much needs to be done? Where is improvement needed?”

C. Long-Range Business Plans

The long-range plan, referred to in this Guidebook as the **Business Plan**, is developed every 3-5 years as a broad outline of the district’s response to natural resource concerns and other factors that influence the district’s course of action. The Business Plan should be updated annually, usually during the same time the Annual Work Plan is being developed.

ODA and OACD have designed a format for the Business Plan so that it performs the functions and incorporates the concepts and contents associated with both long-range and strategic plans. *Long-range planning* assumes today’s conditions and trends will continue into the future: programs, services, products, funding levels, etc. *Strategic planning* is a process to determine where a district intends to be in the future and how it intends to get there. It concentrates on key factors:

- Defining a vision and identifying values and guiding principles that will convince people of the value of the district and build trust and rapport between the district and the communities and consumers it serves.
- Conducting a “situational analysis”: examining political, economic, social, technological trends and forces, and key stakeholders that will influence how the district does business; describing the mission; examining opportunities and threats the district faces; exploring the district’s strengths and weaknesses; and identifying critical issues the district will face in the future. Critical issues are problems requiring resolution because of their potential negative or positive impact on the district, citizens, and the environment.
- Identifying and resolving issues.
- Determining the best approaches and strategies to move the district toward the desired future.

1. Benefits of a Business Plan

In addition to complying with a statutory requirement, a good Business Plan provides benefits to both a conservation district and to the consumers and communities it serves. The audiences of a Business Plan are both internal and external. Examples of the benefits are listed below, grouped under four headings.

- A. Mission and Direction
 - 1. The district has a road map. It knows what it wants to accomplish. Knowing where the district is heading builds confidence and enthusiasm among directors, employees, and partners.
 - 2. Identifies problems to address, goals to achieve, and approaches to be used. The district knows not only where it wants to go, but also what it must do to get there.
 - 3. It guides and directs local district / partner decision makers to:
 - a. Describe current natural resource concerns and geographic areas of concern;
 - b. Define the desired conditions, outcomes, and results;
 - c. Identify and evaluate alternative strategies and approaches to address resource concerns and achieve the desired conditions;
 - d. Determine long-range strategies and necessary resources;
 - e. Formulate a work plan with measurable objectives and defined responsibilities;
 - f. Assign fiscal, physical, and personnel resources to carry out the objectives;
 - g. Implement their work plan; and
 - h. Monitor progress and evaluate results.
 - 4. Provides long-range goals, targets, and priorities for Annual Work Plans.
 - 5. Helps the district target current resources to the highest priorities.
- B. Internal Management
 - 6. Provides information on which to recruit, employ, and supervise employees. Supervision is more directed and effective since specific responsibilities, job functions, and expectations can be identified in the Business Plan for each employee.
 - 7. Specifies the content and issues, and the goals and objectives on which annual reports are based. Annual reports describe the progress achieved toward the long-range goals and annual work plan objectives.
 - 8. Guides the development of monitoring and evaluation standards and methods.
 - 9. Leads to specific fiscal allocation, costing, and budgeting.
 - 10. Can eliminate superfluous and unproductive actions: those not addressing specific objectives and those not within the mission of the district and field office (not "our thing").
 - 11. Provides a solid justification for saying "no".
 - 12. Clearly outlines the work plan and workload on which employees report to their supervisors and district board.

C. Resource Requirements/Needs

13. Identifies the resources necessary to carry out the work:

- a. Personnel (a workload analysis: number of hours or days each employee, director, associate director, director emeritus, NRCS employee, volunteer or other persons will contribute to each action);
- b. Physical resources (equipment, space, vehicles, etc.);
- c. Fiscal resources;
- d. Others.

14. Provides the information on which to base decisions for assigning new resources or reducing or re-assigning current resources.

15. Provides credible information on which to develop, defend, and market funding proposals.

D. Community and Partner Relations

16. Contains information that can be extracted and used in many different media to inform and educate the public about the district, the problems and issues to be addressed, the goals and objectives, and the resources needed.

17. Enhances partner relations: identifies specific areas for collaboration, where help is needed, where responsibilities overlap, etc.

2. Business Plan Contents

The contents of the long-range Business Plan can be broken down into four areas.

A. Resource Concerns and Outcomes

- 1. Resource concerns. A resource concern is a situation or condition that does not meet defined standards (rules, laws, public and district expectations, administration decisions, etc.). The inadequacy may be in natural resources (water quality and quantity, erosion, waste management, etc.); physical properties (equipment, buildings, vehicles, etc); fiscal resources; personnel (number, skills, capabilities, etc.); public participation; knowledge; support; and many other items.
- 2. Goals and Outcomes. Goals and outcomes are statements of desired conditions, situations as they should be, or end results. Goals are usually long-term. They are usually not measurable to the same specificity as objectives.
- 3. Critical Geographic Areas. Identify and map particular places in the district where specific problems or issues need special attention.

4. The resource concerns and outcomes should be prioritized according to criteria defined by the district in consultation with the public and partners.
 5. From this information, measurable objectives / strategies are written for each of the goals or outcomes.
- B. District Capacities, Needs and Strategies.
- In this section, the Business Plan (a) defines the current conditions and circumstances for each of the six factors listed below, (b) describes the desired outcomes; and (c) identifies how the district intends to achieve the long-range objectives for all of the following:
1. Services, programs, and customers
 2. Personnel
 3. Facilities
 4. Equipment
 5. Monitoring and evaluation
 6. Finances
 7. Other
- C. Description of the District.
- Certain information is necessary to “introduce” or describe the district. This section describes the:
1. Enabling and governing legislation – legal structure, powers, and authorities
 2. History of the district
 3. District vision and mission
 4. Values and guiding principles
 5. The district’s leadership
 6. How the district operates
 7. Relationships the district has with partners and the community
- D. Planning Process.
- This section describes
1. The processes used
 2. Data collected and reviewed
 3. Partners assisting the district in the planning
 4. Public involvement, and
 5. Other important factors to assess resource concerns and determine the long-range course of action.

D. Annual Work Plans

An **Annual Work Plan** outlines specific objectives and activities the district will pursue in the next fiscal year to address the goals defined in the Business Plan. The Annual Work Plan should be completed just prior to or at the beginning of the state fiscal year, and should cover **July 1** of the current year to **June 30** of the following year. The Annual Work Plan must be submitted to the Natural Resources Division, Oregon Department of Agriculture for approval **no later than August 15**.

The Annual Work Plan should include work that can realistically be accomplished during one year. It should include programs which are routinely accomplished each year, such as tours, contests, and demonstrations; estimates of the number of farm plans to be developed and by whom; education and outreach programs; annual reports, annual meetings, and audits; etc. Also include actions taken as preliminary work toward goals in the Business Plan that will be completed in later years. Each item in the plan should (1) define a planned completion date and (2) identify who is responsible to implement it.

The department and the Soil and Water Conservation Commission requires each conservation district to include a Coordinated Resource Management Planning (CRMP) element in its annual work plan.

The CRMP process is an excellent tool for conservation districts to use with local landowners and land users to work toward resource management goals. CRMP is a voluntary collaborative process by which resource owners, managers, and land users work together as a team, from beginning to end, to formulate and implement plans to manage all major resources and ownerships within a specific area and/or to resolve specific conflicts. For more information consult the manual, *Coordinated Resource Management Planning Notebook, CRMP in Oregon*, available from:

The Commission's requirement for every district to include an element on how it will incorporate CRMP does not mean every district must have an actual CRMP plan in progress or in place, but that the district should use the process when appropriate.

Oregon Watershed Enhancement Board
775 Summer Street, NE
Salem, OR 97301, Suite 360
Phone: (503) 986-0178

The Annual Work Plan should list the objectives and activities to be accomplished in the next fiscal year. Include such items as:

1. Goals (goals and sub-goals from the Business Plan)
2. Objectives for one year
3. Actions, tasks, or steps needed to accomplish each objective
4. Estimated workload [hours or days by each individual (employee, director, volunteer, contractor, etc.) or discipline for each action]
5. Person(s) responsible for each action
6. Due dates or time schedule to complete each action
7. Budget information (if desired): cost elements, cash categories, etc.

Use the Annual Work Plan to figure out budget requirements that cannot be tied to objectives, such as "lease", resource funds, contingency funds, savings that fit other financial reporting such as Profit & Loss statements.

Annual Work Plans describe in detail **who** is going to do **what**, **by when**, and **how**. Most actions are a sequenced list of tasks recorded on a timeline, like a calendar, flow chart, time bar chart, or spreadsheet.

E. Recommendations for Writing Plans

The following hints about writing plans may prove helpful.

1. Plan for planning. Appoint committees. Gather appropriate information. Write out a plan with tasks, assignments, and a schedule to complete the desired plan.
2. Involve district directors, associate directors, directors emeritus, employees, advisors, cooperating agencies, partners, and the public.
3. Make sure the district has thoroughly assessed the conditions and determined the most critical resource concerns and issues to be addressed.
4. Just describing the problems is not enough. The district must describe the desired conditions, and outcomes. As stated earlier, only by comparing two points can one determine priorities and actions needed to make changes.
5. Setting goals. After researching and defining local conservation problems, issues, and needs, the district should develop goals to address the needs. Goals have different levels. In the Business Plan, set broad, strategic, long-range goals, which focus on the next 3-5 years. In the Annual Work Plan, list more specific, measurable, operational objectives and tasks for the results needed during that fiscal year.
6. Prioritize the resource concerns, goals, and objectives.
7. Brainstorm alternate solutions to meet the goals.
8. Assess the readiness of the conservation district to implement solutions: adequate personnel, sufficient technical assistance, adequate financial assets, etc.
9. Make the plan attractive, easy to read, and understandable. Use graphics.

10. Be creative. Do not automatically accept “the way things were always done”.
11. Be realistic. Do not try to accomplish more than is attainable, or credibility may be lost. Plan for success.
12. When the Business Plan and Annual Work Plan are completed, they should be reviewed and approved at a board meeting. A conservation district representative (usually the chair) should sign both plans. Many conservation districts ask every director and a representative of each partner agency or organization having responsibilities in the plans to sign each plan as well. Indicate on each plan the date it was approved by the board.
13. Provide copies of the district plan to ODA, NRCS, watershed councils, and other partners. Also provide copies to the media, community leaders, and others, accompanied by a news release explaining the district’s major goals and activities.

F. Implementing Plans

After finalizing plans, implement planned tasks by mobilizing the sources of assistance with the expertise to deal with the identified needs (these sources of expertise and assistance should have already been consulted in the planning process). Many conservation districts may choose to have one or more committees to oversee implementation. Regardless of how the district manages implementation, it should keep the district program on the planned course. Allow some flexibility to include new developments, but do not let the district get sidetracked from the plan.

G. Monitoring and Evaluating Plans

This Guidebook cannot go into all the details about monitoring and evaluation, but it is important that districts recognize some basic facts.

1. Monitoring and evaluation processes are usually the most neglected portions of plans, often left to the last minute and given insufficient attention.
2. Since competition for limited funds is steadily increasing, monitoring and evaluation are becoming more important and are given increased attention by funders.
3. Monitoring and evaluation activities should relate to the district’s total program, not just the grants requiring such. They focus on funding (“Are we on budget? Are funds being spent as budgeted?”). They may also focus on conducting meetings (“Are we starting and adjourning as scheduled?”). Other factors include objectives in the Business Plan and Annual Work Plan, personnel performance, board functioning, the work of volunteers, education efforts, record keeping, consistency with vision and mission, public relations, etc.

4. Monitoring and evaluation activities should not be done only at the end of a grant period or the fiscal year. They should be conducted throughout, from beginning to end.
5. The most important factor influencing the district's ability to conduct effective monitoring and evaluation activities is the quality of the plans. For monitoring and evaluation to be done effectively and efficiently, clear goals, measurable objectives, detailed work plans, careful workload analyses, detailed budgets, good record keeping, clearly defined employee responsibilities, and quality monitoring and evaluation standards and methods are essential.
6. The type of objective used determines the degree of complexity in monitoring and evaluation. Product objectives require a low level of expertise and effort. "Was the product produced? On time? In sufficient quality and quantity?" On the other hand, impact objectives are very difficult and require extensive data collection and possibly professional assistance to devise an adequate evaluation strategy.
7. Semi-annual and even quarterly reviews of the plans are advised. Changes may be necessary to eliminate or adjust objectives no longer appropriate or to incorporate a new requirement or opportunity not known when the plan was first written.
8. Directors and managers must look at their operations with at least three major concerns in mind.
 - a. Achievement. "How well are we doing? Are we reaching our objectives? Are we on schedule? Are we still on course? Have we served the consumers we wanted to serve? Is money being spent as planned? Are we doing the things we said we would do?"
 - b. Improvement. "How can we do our job better? Are we using the best methods? What changes might produce better results? What is needed for improvements to be possible? Do our employees have the knowledge and skills required to perform as desired?"
 - c. The Future. "What impact will today's operation have on next year? Are we heading toward our long-range goals and objectives? Have we built in flexibility and responsiveness so we can adjust to changes and react to the unexpected? What survival threats loom ahead of us? Have we already started to prepare for what we will face in the future?"
9. Evaluation in all three areas in item #8 requires good information and accurate, complete records.

VI. District Finances

A. Public Funds

All funds obtained by a conservation district, regardless of source, are ***public funds***, whether they come from public or private sources. Directors should be advised there are statutes that address improper or unlawful use of public funds.

294.100 Public official expending money in excess of amount or for different purpose than provided by law unlawful; civil liability.

- (1) It is unlawful for any public official to expend any moneys in excess of the amounts provided by law, or for any other or different purpose than provided by law.
- (2) Any public official who expends any public moneys in excess of the amounts or for any other or different purpose than authorized by law shall be civilly liable for the return of the money by suit of the district attorney of the district in which the offense is committed, or at the suit of any taxpayer of such district, if the expenditure constitutes malfeasance in office or willful or wanton neglect of duty.
- (3) On the demand in writing of 10 taxpayers of any municipal corporation with a population exceeding 100,000 inhabitants, filed with the tax supervising and conservation commission in the county in which the municipal corporation is situated, which demand sets forth that a public official has unlawfully expended public moneys in excess of the amount or for any other or different purpose than provided by law and that the expenditure constitutes malfeasance in office or willful or wanton neglect of duty, the tax supervising and conservation commission shall make an investigation of the facts as to the expenditure. If the tax supervising and conservation commission finds that public moneys have been unlawfully expended and that the expenditure constitutes malfeasance in office or willful or wanton neglect of duty, the commission shall proceed at law in the courts against the public official who has unlawfully expended the moneys for the return of the moneys unlawfully expended to the treasury of the municipal corporation. A right of action hereby is granted to the tax supervising and conservation commission for the purposes of this section.

B. Fiscal Administration

The board has the following fiscal responsibilities:

- Create and adopt a district budget
- Manage funds consistent with fiduciary responsibility
- Maintain accurate and complete financial records and reports, including:

- District Budget
- Revenues and expenditures
- Property and assets (i.e., cash, equipment, furniture, vehicles, inventory, etc.)
- Manage cash deposits, investments, and other financial holdings
- Review monthly financial or treasurer's report
- Report to appropriate local, state, and federal agencies and governments

C. Budgets

1. Developing and Adopting Budgets

All districts are required to prepare an annual budget for district operations. A budget is a financial plan that estimates the resources and expenditures required to conduct business in the upcoming year. A properly prepared budget allows lawful appropriations, which provides the authority to spend money. Spending outside this authority is unlawful and subjects public officials to the liabilities outlined in ORS 294.100.

The preferred method of preparing a district's budget is to follow "fund accounting" principles. Fund accounting means there are different funding sources that identify different parts of the budget (i.e., general funds, specific grant funds, tax revenues, etc.)

If a district receives property tax revenues (i.e., *ad valorem* tax), it is required by law to prepare its budget according to Oregon Local Budget Law, which requires the use of fund accounting.

Recommendation: Conservation districts are encouraged to adopt a budgeting procedure consistent with Oregon Local Budget Law, whether they are a taxing district or not. Each district should obtain a copy of the **Local Budgeting Manual**, provided through the Oregon Department of Revenue, Property Tax Division. This manual provides guidance on developing a budget and includes examples of budget preparation worksheets. Assistance is available from the Oregon Department of Agriculture, Oregon Department of Revenue, and the Oregon Association of Conservation Districts for guidance and training in using this process.

When developing its budget, the district should consider the following:

- Projected workload (workload analysis). The estimated time and costs required of directors, staff, and volunteers to achieve the objectives and actions identified in the Annual Work Plan.
- Anticipated resources and revenues from all sources, including:
 - Beginning fund balances

- Federal and state grants
- Private and corporate sources
- Local county funding
- Tax revenues
- Fund-raising activities
- Use of savings
- Transfers from other funds
- Interest earned
- Other sources of income
- Projected expenditures including:
 - Personal services (i.e., payroll, benefits, contracting, etc.)
 - Materials and services (i.e., supplies, rent, etc.)
 - Capital outlay (i.e., equipment, vehicles, buildings, furniture, etc.)
 - Debt service
 - Transfers to other funds
- Other financial requirements:
 - Operating contingency
 - Reserve funds
 - Unappropriated ending fund balances

The budget may be prepared by the entire board, a designated budget officer or treasurer, a finance committee, a consultant, or designated staff. Once prepared and reviewed, the board adopts the district budget ***in its entirety*** by board action. By adopting the budget, the board is authorizing its representatives to conduct transactions incumbent in the budget.

The district's fiscal policies and procedures should outline the manner in which district transactions are conducted, recorded, and reported (receiving revenues, paying bills, making transfers, etc.). Districts may choose to:

- Authorize a specific board member or staff person to administer financial transactions within the approved budget categories
- Retain their authority to review and approve transactions by official board actions at regular board meetings.

RECOMMENDATION: It is recommended that districts have a monthly prepared financial statement which identifies (1) transactions that have already have been conducted and/or (2) transactions to be approved by the board. All approvals of financial statements or payment of bills should be reflected in the district's minutes. In addition, financial statements should be attached as part of the minutes.

District boards should review the budget on a regular basis to monitor transactions and determine whether the district will stay within its budget during

the fiscal year. Districts will need to revise their budgets during the year to allow for (1) receipt of new or unanticipated revenues or (2) payment of expenditures which were not anticipated in the current budget.

For districts required to operate under Oregon Local Budget Law, there is a very specific process to revise the budget. District's need to refer to the Oregon Department of Revenue for guidance on this matter.

D. Financial Reports/Records

Districts are required to provide a variety of financial reports and records in order to satisfy statutory requirements, grant agreements, and internal management needs. Financial information can also be used when conducting district outreach activities and to show the public how the district is using its funds.

There are four basic types of financial reports that should be provided by the district:

Type	Frequency
Budget	Annually, or as revised
Treasurer's Report** <i>**Treasurer's reports include statement of receipts and expenditures and current balances of all funds (i.e., income statement, budget vs. actual, etc.).</i>	Monthly
Year-End Financial Summary (with the Annual Report)	Annually
Audit, Financial Review, or Secretary of State Report	Annually

All of these reports should be made available and accessible to the public, partners, grantors, and other interested parties. These reports can also be useful to prepare informational materials and public presentations regarding district programs.

Special Note: The law requires districts to provide certain financial reports to the Secretary of State and the Department of Revenue. ORS 198.345 states:

198.345 Effect of failure to file certain reports.

- (1) If a special district for three consecutive years fails to file a report as required by ORS 294.555 or 297.405 to 297.555 the Secretary of State or the Department of Revenue, as the case may be, shall notify the county board of the county where the district, or the greater portion of the assessed valuation of taxable property in the district, is located.
- (2) Within 30 days after receiving the notice provided by subsection (1) of this section, the county board shall initiate proceedings to dissolve the special district as provided by ORS 198.345 to 198.365.
- (3) The county board may appoint three individuals, residents of the district, to assist in locating the assets, debts and records of the district.

E. Audits and Bonding Requirements

1. Oregon Municipal Audits Law

Oregon conservation districts are legal subdivisions of the state, and are subject to the **Municipal Audits Law (ORS 297.405-435 and 297.670)**.

Conservation districts are required by law to provide a fidelity or surety bond for any members of the board or its employees who are charged with possession and control of funds. Conservation district audit and fidelity/surety bonding requirements, as per the Municipal Audits Law, fall into one of three categories:

A. *The conservation district's annual revenues plus expenditures are **less than \$150,000**,*

- District may submit a self-prepared financial statement titled "In Lieu of Audit Report" to the Secretary of State.
- District must provide a fidelity or surety bond for the official(s) principally responsible for conservation district finances.
- The fidelity or surety bond must be equal to the annual revenues.

B. *The conservation district's annual revenues plus expenditures are **between \$150,000 and \$500,000**:*

- District must have an **audit review** of its financial statements, done by a contracted accountant. The district may choose to have a full-blown audit instead.

- The fidelity or surety bond can be equal to 10% of annual revenues, but not less than \$10,000.

C. *The conservation district's annual revenues plus expenditures **exceed \$500,000:***

- District must have a **full audit**, done by a contracted accountant.
- No *fidelity or surety bond* is required by Municipal Audits Law, but Special Districts Law (ORS 198.220) does require a fidelity bond for any employee or director who possesses or controls district funds. The amount of the fidelity bond is determined by the district.

2. Levels of Financial Audit Requirements

The only significant difference between an audit and audit review is in the amount of investigation the Certified Public Accountant (CPA) does. In an audit review, the CPA may not look at supporting documents, the bookkeeping system being used, or make inquiries and observations. A Secretary of State filing fee is required for both, based on the amount of the expenditure (ORS 297.485).

3. State Audit Review/Audit Process

When obtaining a CPA to do either an audit review or audit, the CPA must be licensed by the state Board of Accountancy. The CPA must hold a municipal audit license (be on the municipal roster) and be licensed to practice as a CPA to audit government entities. When doing an audit review or audit, the CPA fills out a summary form for Municipal Corporations provided from the Secretary of State's office. The CPA sends the summary form to the Secretary of State's office. The district is responsible to send the budget report to the Secretary of State.

Unless the Secretary of State has granted the district an extension, the following filing deadlines apply:

- Reviews and audits:
180 days from the end of the fiscal year.
- In Lieu of Audit Report:
90 days from the end of the fiscal year.

For more information on reviews and audits, contact:

Secretary of State, Audit's Division
Public Service Building, Suite 500
255 Capitol Street, NE
Salem, OR 97310
Phone: (503) 986-2255
Fax: (503) 378-6767

4. Federal Audit Requirements

The *Single Audit Act Amendments of 1996* requires any conservation district receiving **\$300,000** or more in federal funds must have an official audit. *Public Law 104-156-July 5, 1996 § 7502(2)(A), Audit Requirements and Exemptions.* Federal agencies may have differing audit requirements associated with grant funds. Check with the granting federal agency to see if its requirements are different from that in the Single Audit Act Amendments of 1996.

5. Fidelity and Surety Bonding

The terms “fidelity bonding” and “surety bonding”, are used interchangeably in literature and by many bonders, and are used that way in this Guidebook.

Fidelity bonding is defined as the assumption of responsibility by one or more persons for fulfilling another's obligations.

- A fidelity bond indemnifies an employer for losses caused by an employee's or district official's fraudulent or dishonest act, such as:
 - stealing from the till;
 - writing unapproved checks to oneself;
 - falsifying financial records; and
 - taking publicly-owned equipment, furnishings, or supplies for personal use.
- The conservation district is responsible for the bond.
- A bond can be purchased from an independent insurance company approved as a surety insurer by the Insurance Division of the Secretary of State's Office.

Suspected losses may be investigated under the following options:

1. Secretary of State Audits Division performs or directs investigations as needed.
2. Department of Administrative Services, Risk Management Division performs investigations adequate for proof of claim on minor losses, where the Audits Division chooses not to do so.
3. Oregon Department of Justice (DOJ) advises and assists the Audits Division and the Risk Management Division as requested. DOJ takes the lead on potential losses with a criminal component, e.g., embezzlement.
4. The District Attorney, in the respective county, is asked by the Risk Management Division to seek restitution as part of the criminal prosecution.

Recommendation: If your district suspects dishonesty, contact the Audits Division, Risk Management Division, and/or the Department of Justice.

F. Sources and Mechanisms for Funding

The first step in conservation district funding is to define the district's need for funds. The district should refer to its annual work plan and long-range business plan when determining funding needs. The district should then assess what funds are available from county appropriations, federal and state grants, local income-producing projects, individuals, corporations, businesses, foundations, and other sources.

1. State Funds

The Oregon Legislature appropriates funds to the Oregon Department of Agriculture, Natural Resources Division for use by districts. The amount of appropriation varies from year to year, dependent upon the legislative priorities. As of February 2002, the funding sources available to qualified districts are:

- Administrative funds
- Technical Assistance funds
- Local Management Agency funds
- Small Grant funds
- Landowner Workshop funds

For more information, contact the Oregon Department of Agriculture at:

Oregon Department of Agriculture
Natural Resources Division
635 Capitol Street, NE
Salem, OR 97301
Phone: (503) 986-4700
Fax: (503) 986-4730
Website: http://oda.state.or.us/Natural_Resources/nrd_index.htm

Funding for conservation activities may be available from other state agencies, including, but not limited to:

Oregon Watershed Enhancement Board (OWEB)	Department of Environmental Quality (DEQ)
775 Summer Street, NE - Suite 360	811 SW Sixth Avenue
Salem, OR 97301-1290	Portland, OR 97204-1390
Phone: (503) 986-0718	Phone: (503) 229-5696
Fax: (503) 986-0178	Toll Free: (800) 452-4011
http://www.oweb.state.or.us	Fax: (503) 229-6124
	http://www.deq.state.or.us

Oregon Department of Fish and Wildlife (ODFW)
2501 SW First Avenue
Portland, OR 97207
Phone: (503) 872-5263
<http://www.dfw.state.or.us>

Oregon Department of Agriculture
Weed Division
635 Capitol Street, NE
Salem, OR 97301
Phone: (503) 986-4621
Fax: (503) 986-4786
<http://oda.state.or.us/Plant>

Oregon Department of Forestry (ODF)
2600 State Street
Salem, OR 97310
Phone: (503) 945-7200
Fax: (503) 945-7212
<http://www.odf.state.or.us>

2. County Funds

Some districts receive county funds for operations and projects. Districts should make a special effort to inform local government officials of their programs and accomplishments.

When communicating with the county, the district may choose to highlight some of the following partnership benefits:

- The district provides benefits and assistance to individual landowners in the county.
- Conservation districts can help counties with soil surveys and interpretations for planning, county assessment, structures, highways, and noxious weed control.
- Preventing erosion can reduce road drainage clean-up cost.
- Conservation investments contribute to the local economy.
- Added value of well-cared-for properties maintains the local tax base.
- Conservation district programs are cost-effective because of high volunteer inputs.
- Conservation districts leverage federal and state dollars and bring those dollars into the local economy.

- Conservation districts can serve as local sponsors for some federally-funded programs, such as the Emergency Watershed Protection program, which allow for millions of federal dollars to be used for conservation efforts related to floods or droughts.
- Cooperative agreements with assisting agencies bring state and federal assistance to the county.
- Conservation districts serve as advocates for local landowners to secure assistance.

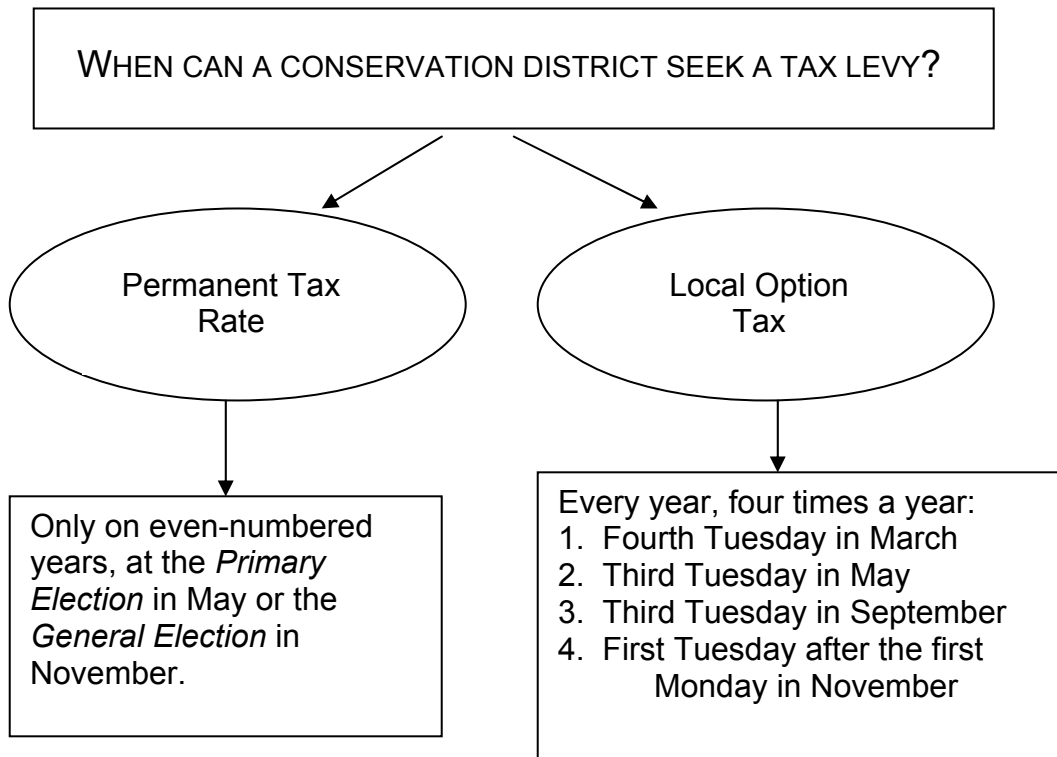
3. Taxing Authority

The 1983 Oregon Legislature authorized conservation districts to seek voter approval to levy an *ad valorem* property tax within the boundaries of each district (ORS 568.806-568.808). However, this is not a statewide, blanket authorization for conservation districts to levy taxes. Each district must receive voter approval, through a referendum, before taxes can be levied and collected for the district.

Through its taxing authority a conservation district may choose to seek either a **permanent tax rate** or a **local option tax**.

- A **permanent tax rate** is the amount of an *ad valorem* tax approved by the voters of a local government for an indefinite number of years.
- A **local option tax** is the amount of an *ad valorem* tax approved by the voters of a local government for a specific number of years, but more than one. The district may seek more than one local option tax.

Note: If a district is approved by voters for a local option tax, it disqualifies itself from ever seeking a permanent tax rate within the district.



A conservation district that receives voter approval for a tax measure in March, May, or September is eligible to begin receiving tax dollars the following November. If the district receives voter approval in November, funds will not become available to the district until the following November.

Any conservation district contemplating seeking voter approval for a tax measure should begin the planning process well in advance of the election date. Additionally, districts should consult with several different entities regarding the proper procedures for filing ballot measures. Some important contact and publication information follows:

County Board of Commissioners	Consultation
County Clerk or Elections Officer	Consultation
County Tax Assessor	Consultation
County Tax Collector	Consultation
Oregon Department of Agriculture, Natural Resources Division	Consultation
Special Districts Association of Oregon	Consultation
Secretary of State, Elections Division	Campaign Finance Manual: Political Committees
Secretary of State, Elections Division	District Elections Manual
Oregon Department of Revenue	Local Budget Law Manual
Oregon Government Standards and Practices Commission	Oregon Government Standards and Practices Laws, <i>A Guide For Public Officials</i>

NOTE: An important issue to be clarified is who will pay the election costs, win or lose? If the district has to pay for the election, where will it get the money? If the district is successful in passing its measure, revenues from tax can pay for the election. However, if the measure fails, the district must still have a plan on how to cover the election costs.

4. Federal Funds

Funds for conservation projects are available from a number of federal agencies. Some possible sources for funding include:

Natural Resources Conservation Service
USDA, NRCS
101 SW Main Street, Suite 1300
Portland, OR 97204
Phone: (503) 414-3200
Fax: (503) 414-3277
<http://www.or.nrcs.usda.gov>

Environmental Protection Agency
Oregon Operational Office
811 SW 6th Avenue, 3rd Floor
Portland, OR 97204
Phone: (503) 326-3250
Fax: (503) 326-3399
<http://www.epa.gov>

Bonneville Power Administration
P.O. Box 3621
Portland, OR 97208-3621
Toll Free: (800) 282-3713
Phone: (503) 230-3000
<http://www.bpa.gov>

USDA Forest Service
Pacific Northwest Region
P.O. Box 3623
Portland, OR 97208-3623
Phone: (503) 808-2340;
Fax: (503) 808-2339
<http://www.fs.fed.us>

U.S. Fish and Wildlife Service
Phone: (800) 344-9453
<http://www.fws.gov>

Bureau of Land Management
Oregon State Office
P.O. Box 2965
Portland, OR 97208
Phone: (503) 808-6002
Fax: (503) 808-6308
<http://www.blm.gov>

5. Grant Funds

Grant funds are awarded to an agency or organization on a competitive basis for a fixed period of time and usually for a specific purpose. Federal and state governments, state councils, and private and industrial foundations are all sources of grants. However, many private foundations and corporations grant funds only to entities that have an IRS 501(c)(3) **non-profit** status designation. A discussion on the eligibility of conservation districts for IRS 501(c)(3) non-profit status designation follows later in this document.

If the granting organization allows for administrative funds to be included in the grant budget, the district should seriously consider incorporating administrative costs into the proposal. Also, it is important to determine what impact additional grant funds will have on the district's budget and *audit status*. If the additional grant funds raise the district's budget to a point where an audit is required, the district will need to determine how it will cover the additional audit costs.

The state Coordinated Resource Management Planning Task Group has compiled the document, *Public Funding Sources For Landowner Assistance*. As of this printing, this document is available through:

Oregon Watershed Enhancement Board (OWEB)
775 Summer Street, NE
Suite 360
Salem, OR 97301-1290
Phone: (503) 986-0718
Fax: (503) 986-0178
Website: <http://www.oweb.state.or.us>

6. Fund-Raising

Conservation districts have the legal ability to undertake local fund-raising activities. Examples of fund-raising activities include:

- Conservation equipment rental (no-till drill)
- Retail sales (trees, plants, hats, books, posters etc.) - ***Be sure what the district sells is not promoting or endorsing a specific name brand or product.***
- Silent Auction
- Special events (bake sales, golf tournaments, walk-a-thons, etc.)
- Testimonials - charge a specific amount of money for a dinner in testimony to someone
- Service fees paid for providing conservation services (i.e., soil testing, tree planting, etc.)
- Direct appeals for donations through media, mail, or telephone
- Memorials, bequests, and honorary gifts (Example: the relative of a deceased conservation-minded person establishing a scholarship fund in his/her memory)
- Membership (annual contributions from individuals, agencies, and/or organizations)
- Sponsorship for individual projects (Example: sponsorship of Envirothon participants or a workshop)
- Advertisement in district newsletter

A publication of the National Association of Conservation Districts, called *More Dollars For Your District*, is a very helpful guide in planning a fund-raising activity.

The most effective way to successfully raise funds is to develop and follow a fund-raising plan. Board members should be active in fund-raising planning and events. Staff can help, but the directors are ultimately responsible.

When budgeting staff time for fund-raising activities, the board should determine if sufficient income could be realized from the investment of that staff time.

NOTE: Standards For Charitable Solicitations, issued by the Council of Better Business Bureaus, provides a fuller understanding of the ethical aspects of many fund-raising techniques. The Standards For Charitable Solicitations can be found at: <http://www.give.org/standards/cbbstds.asp>

7. Tax Exempt vs. Nonprofit

Conservation districts are classified by the Internal Revenue Service (IRS) as **tax exempt** under IRS Code, Section 115. Districts do not qualify as nonprofits under IRS Code, Section 501(c)(3).

Tax Exemption Eligibility:

IRS Code, Section 115 specifically excludes the income of municipal governments/corporations (which includes conservation districts) from its definition of gross income, therefore, making conservation districts *tax exempt*. Conservation districts are classified as municipal governments/corporations, rather than agencies of the state, for this purpose.

Nonprofit Ineligibility:

A state or municipal instrumentality may qualify under IRS Code, Section 501(c)(3) for *nonprofit* status if it is organized as a separate entity from the governmental unit that created it and if it otherwise meets the organizational and operational tests of Section 501(c)(3). Conservation districts are political subdivisions of state government, **are not** organized as a separate entity from a governmental unit, and **do not** meet a sufficient number of the IRS Code, Section 501(c)(3) non-profit status eligibility criteria to get approved as IRS Code, Section 501(c)(3) non-profit entities.

Although conservation districts are currently not eligible to qualify for IRS Code, Section 501(c)(3) nonprofit status, they can partner with other entities that have this eligibility, such as the Oregon Association of Conservation Districts Foundation, or foundations formed through the USDA Resource Conservation and Development (RC&D) programs in the state. Billions of dollars in grant funds are available from several thousand philanthropic private foundations and corporations.

8. Tax Deductibility for Donations/Contributions

Conservation districts have the authority under ORS 568.550(5), "to obtain options upon and to acquire by purchase, exchange, lease, gift, grant, bequest or devise any property, real or personal or rights or interests therein; to maintain, administer and improve any properties acquired; to receive income from such properties and to expend such income in carrying out the purposes and provisions of ORS 568.210 to 568.808 and 568.900 to 568.933; or to sell, lease or otherwise dispose of any of its property or interests therein in furtherance of the purposes and provisions of ORS 568.210 to 568.808 and 568.900 to 568.933."

IRS Code, Section 170(c)(1): Contributions or gifts to a state or any of its political subdivisions, i.e., conservation districts, are "charitable" contributions for tax purposes, and are, therefore, **tax deductible**. (see IRS Publication 526: Charitable Contributions)

Donor Substantiation Requirements:

- No deduction will be allowed under Section 170 of the Internal Revenue Code for any charitable contribution of \$250 or more unless the donor has contemporaneous written substantiation from the charity (e.g., the conservation district).
- The substantiation must be "contemporaneous", meaning the conservation district must provide the donor with the written substantiation no later than the date the donor actually files a return for the tax year. *There is no prescribed format, however, a sample format is included below for your use.*
- Taxpayers who make contributions of \$250 or more can no longer rely solely on a canceled check for cash contributions.
- If the conservation district has provided goods or services to the donor, in exchange for making the contribution, the contemporaneous written acknowledgement must include a good faith estimate of the value of such goods and services.

The responsibility for obtaining the substantiation lies with the donor, who must request it from the conservation district. However, the conservation district should inform the donor of this requirement, as a courtesy.

SAMPLE Written Substantiation for Contribution to Conservation District

ACKNOWLEDGMENT OF RECEIPT OF CHARITABLE CONTRIBUTION

TO: _____ SOIL AND WATER CONSERVATION DISTRICT (SWCD)

DATE: _____

RECEIVED FROM: _____

DESCRIPTION:	Item No. 1: _____	Value\$ _____
	Item No. 2: _____	Value\$ _____
	TOTAL VALUE OF CONTRIBUTION	\$ _____

(Contributions of volunteer time and services are not deductible)

If applicable, estimate of value of all goods and/or services provided by _____ SWCD to the contributor **in exchange** for this contribution \$ _____
(Example: the fair market value of an item being purchased from _____ SWCD)

Technical assistance to landowners is provided free of charge by _____ SWCD. Any financial or in-kind contribution made by a landowner who receives technical assistance is considered a voluntary donation, not a fee.

NET VALUE OF CONTRIBUTION \$ _____
(Examples: the price of a book minus the fair market value; the price of a banquet ticket minus the actual cost of food and set-up)

RECEIVED BY _____
SWCD Representative

This acknowledgment is only valid if signed by a representative of _____ SWCD.

_____ SWCD is a political subdivision of state government and a "qualified" tax-exempt organization. IRS Code: Section 170(c)(1) states: Contributions or gifts to a state or any of its political subdivisions are "charitable" contributions for tax purposes and may, therefore, be tax deductible. Contributors must meet IRS personal qualifications and limitations, thus the _____ cannot guarantee the contribution(s) listed on receipt are deductible. (See IRS Publication 526: Charitable Contributions)

VII. Legislative Issues and Relations

A. Supporting or Opposing a Ballot Measure or Candidate

1. The Governing Body

A governing body of elected officials can take positions on ballot measures. Staff can record votes and type resolutions of support or opposition if that is part of their normal work duties. Staff can also do research to bring the measure to the governing body. This research can describe background information on the measure, its potential effects, and pros and cons of the measure.

The governing body **may not** make a mass distribution of their advocacy position on a ballot measure to the public. However, if copies are requested by the public, the agency may use office facilities to copy the resolution expressing their position.

2. Elected Officials

Elected officials may spend their work time on ballot measures, whether the position they hold is paid or unpaid under ORS 260.432(4)(a). The courts have recognized the right, if not the duty, of public officials to speak out on major issues, particularly on matters that affect the governmental body on which they serve. However, elected officials must be careful not to involve staff in their advocacy campaign; e.g., staff persons cannot type advocacy statements or speeches for elected officials on agency time or using agency resources.

3. Agency Staff

ORS 260.432 prohibits “any person” from requiring or attempting to require a public employee to give money, service, or anything of value to promote or oppose the adoption of a measure. Agency staff must use their own personal time if they want to advocate a position on a measure. A public employer is required to post, in a conspicuous place, a notice that outlines legal restrictions on the political activity of their employees while on the job during working hours. Contents of the notice are contained in ORS 260.432(3):

ATTENTION ALL PUBLIC EMPLOYEES:

The restrictions imposed by the law of the State of Oregon on your political activities are that "No public employee shall solicit any money, influence, service or other thing of value or otherwise promote or oppose any political committee or promote or oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office holder while on the job during working hours. However, this section does not restrict the right of a public employee to express personal political views."

It is therefore the policy of the state and of your public employer that you may engage in political activity except to the extent prohibited by state law when on the job during working hours.

If a public employee makes a presentation outside working hours which will include advocacy statements, it may still be advisable to announce to the audience that they are speaking not in their "official capacity" but as a private individual.

Subject to limited regulation by the employer to avoid disruption in the workplace or suggesting to the public that the employee's personal political views are endorsed by the public employer, public employees may express their personal opinion on the job, wear buttons, and do other things which are protected under their right to free speech.

A public employee may not be coerced to vote for a measure, or work to advocate for or against it. For example, a manager representing the public agency may tell employees about the possible effects of a measure, such as possible layoffs, but must not threaten them with financial loss if they vote one way or another.

A public employee can make an impartial presentation of information relating to a ballot measure. This presentation can include a discussion about how the measure came into being (history) and its impacts, so long as it does not segue into advocacy. An elected official may follow a staff person's presentation and advocate in support of or opposition to the measure.

ORS 260.432 prohibits political activities by public employees while “on the job during working hours”. In addition, ORS 294.100(1) makes it unlawful for “any public official” to spend public funds for any purpose not authorized by law, and subsection (2) of the statute makes public officials personally liable for money improperly spent. **This statute has been found by Oregon courts to apply to public officials who used public funds to either support or oppose measures brought before voters.**

In addition, ORS 260.432 (2) states “No public employee shall solicit any money, influence, service or other thing of value or otherwise promote or oppose any political committee or promote or oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office holder while on the job during working hours. However, this section does not restrict the right of a public employee to express personal political views.”

Political activities or efforts by conservation district employees are prohibited unless they are done specifically on the employee’s own time, at the employee’s expense, and away from the district office.

Although it is technically legal for an employee to work on advocacy during his or her lunch hour or break time, public perception of the employee’s action must be considered. Therefore, it is highly recommended all work relating to advocacy be done outside of regular work hours and without using district resources.

As a general rule, public employees may say “Here are the facts.” Elected officials may say, “Here are the facts, please vote for/against this measure”, provided public funds are not used to advocate the position and no public employee time is used to assist in delivering that message.

4. Political Action Committee (PAC)

Formation of a Political Action Committee (PAC) must occur before any funds are collected. PACs must be filed with the county elections officer. The forms and guidebooks necessary to form a political committee and report contributions and expenditures are available from the county elections officer.

5. Ballot Measure Campaigns

While the following guidelines are offered, local officials are encouraged to consult with their attorney when specific questions arise. The guidelines apply to the expenditure of public funds, with a focus on the use of work time by public employees. Confusion about the use of funds may be avoided if interested citizens form a Political Action Committee (PAC), which can legally solicit contributions and produce/distribute advocacy materials.

A. General

Public agencies are subject to the general rule prohibiting the use of public funds to advocate a position either in support of, or opposed to, a ballot measure. All information presented and paid for with tax dollars must be impartial. ORS 260.432 prohibits public employees from spending time “while on the job during working hours” to promote or oppose a ballot measure. While it does not apply to elected public officials, the definition of “public employees” includes not only paid staff, but also unpaid appointed members of boards, commissions, and committees.

Issues relating to the use or misuse of public funds, equipment, materials, supplies, or space are likely to be dealt with under the provisions of ORS 294.100, which establishes personal liability for misappropriation of public funds.

B. Preparation and Distribution of Written Material

Local officials, both elected and appointed, can develop and distribute impartial and factual information on the effects of a ballot measure and may use public funds to do so. Such material should be informational, provide the public with a fair presentation of relevant facts, and not advocate a particular position. For example, staff may spend time doing research and preparing information that fairly assesses the effects of the measure on the agency. Local officials can use such information in meeting with individuals and organizations, e.g., newspaper editors and reporters, legislators, local civic organizations, and special interest groups to explain objectively the measure’s impact on the agency.

Written material prepared or distributed by public employees must be impartial, neutral, unbiased, equitable, and dispassionate. The material cannot lead the voters to support or oppose a measure by **selective use of factual information**, even if the information does not urge a yes or no vote. A statement is advocacy if, when read in its entirety, it clearly intended to generate votes for or against a measure. Factors which may be used to determine the line between information and campaign advocacy include the following:

1. The timing of the material relative to an election date.
2. The balance of factual information including pros and cons about the measure.
3. The overall impression a reader may be left with. Have facts been presented neutrally so that the reader has to decide how to vote, i.e. it informs rather than persuades?
4. The tone of the material. Is it dispassionate rather than enthusiastic for one side or the other of the measure? Do headings, words and phrases lend a positive, negative, or neutral tone in favor of, or in opposition to, the measure?
5. The quotes used. Are they favorable or unfavorable? Are they all from persons on one or the other side of the measure?

6. References to contact with supporting or opposing PACs – such references may imply a connection between the agency and the campaign.
7. The content of the document – it cannot explicitly urge a “yes” or “no” vote.

Any conservation district which has concerns or doubts about the impartiality of information, such as news articles, fact sheets or posters, should contact the Secretary of State’s Election staff to review the copy for compliance with the law before release of the information for public distribution.

Conservation district employees must ensure that information speeches regarding an initiative, referendum, recall petition, or ballot measure, while on work time or in an employee’s official capacity of the district are not advocacy. If any part of any presentation may be perceived as advocacy, the best course of action is to have those presentations given by a director.

The Attorney General has concluded public bodies may use public funds to inform voters of facts pertinent to a measure pending before the voters, if the information is not used to lead voters to support or oppose a particular position in the election.

6. Penalties for Violations

ORS 260.995 authorizes the Secretary of State to impose a civil penalty of up to \$250 for each violation of ORS 260.432. A conservation district employee who is determined by the Secretary of State to have violated ORS 260.432 must pay any assessed civil penalty out of his/her own funds.

It is illegal for public bodies to use public funds to advocate for or against ballot measures or candidates as stated previously in the finance section of this Guidebook. In addition, ORS 294.100(1) states that “it is unlawful for any public official to expend any money in excess of the amounts, or for any other or different purpose than provided by Law.” ORS 294.100(2) makes public officials who violate subsection (1) civilly liable for money improperly spent, and authorizes suit by the district attorney or taxpayers to seek recovery of that money from the officials who authorized the expenditure.

B. Lobbying

1. Definition

ORS 171.725(7) defines lobbying as "influencing or attempting to influence, legislative action through oral or written communication with legislative officials, solicitation of others to influence or attempt to influence legislative action or attempting to obtain the good will of legislative officials."

2. What is Lobbying?

You are lobbying when you:

Talk or write to a legislator or to his or her staff to influence legislative action.

This includes:

- Testimony favoring or opposing a bill or budget.
- Proposing amendments to a bill, including technical amendments.
- A letter, memo, or e-mail favoring or opposing a bill or budget.
- Formal or casual conversations favoring or opposing a bill or budget.
- Talk or write to a legislator or to his or her staff to promote good will toward an agency or program.
- Talk or write to others with the intent to ask them to influence legislative action. This includes:
 - Meetings where you ask people to support or oppose a bill or budget.
 - Letters, memos, e-mails, or newsletters asking people to support or oppose a bill.

You are not lobbying when you:

- Talk or write to a legislator or to his or her staff merely to provide facts. (Facts may include fact estimates and expert opinions of fact.) The facts may apply to any program, budget, bill, or issue.
- Work within your agency to research, write, or otherwise develop a bill or budget.
- Research or write testimony supporting or opposing a bill.
- Are waiting to present testimony or meet with legislators or staff.
- Write or talk to anyone to solicit their input on an agency's legislative proposals or budget.
- Support work for an agency's lobbying activities, ***but do not communicate, yourself, with legislators or their staff.***

3. Conservation Districts' Authority to Lobby

In an Attorney General's Opinion, DOJ File No. 603-137-NR012-90, dated May 24, 1990, a response was provided for the question, "do soil and water conservation districts have authority to lobby, and if so, what are the limitations?" The answer provided was, "yes, but with some limited actions." Conservation districts are authorized under ORS 568.225(2) to "participate in

effectuating" the policy by which they are formed, which is set out in ORS 568.225(1). ORS 568.225(2) provides a broad grant of authority by the legislature to the districts to engage in activities which further the legislative policy set out in ORS 568.225(1).

The use of public funds for lobbying is permissible as long as:

- A. it is the legislature or other government entity that is being lobbied and not the electorate;
- B. the lobbying does not take place indirectly through a political action committee;
- C. the lobbying is not in support or opposition of a particular candidate or measure (i.e., a district may lobby for a bill presented to the legislature or other government body, but cannot lobby for a measure or candidate brought before the voters during an election); and
- D. the funds used to pay for the lobbying or lobbyist be either from funds specifically designated for that purpose or at least from funds not designated for some other specific purpose. General grant money, not restricted to particular purposes, can be used for general conservation district business, including lobbying.

4. Registration

Persons who exceed 24 hours lobbying or who spend more than \$100 during a calendar quarter lobbying must register with the Oregon Government Standards and Practices Commission (GSPC). Once registered, lobbyist expenditures must be reported twice during each even-numbered year and three times during each odd-numbered year. Entities who have lobbyists representing them must report expenditures annually.

VIII. Legal and Effective Meetings

Although statutes do not specify the frequency of conservation district board meetings, it is common practice, and highly recommended by ODA, that boards meet monthly. Meetings are fundamental to conducting conservation district business. Monthly board meetings have several purposes, among which are:

- To discuss and act on regular district business
- To establish district policy
- Identify natural resource issues and concerns and how to address them
- Formulate annual work plans and long-range business plans
- Monitor the implementation of annual and long-range work plans
- Provide information and receive reports
- Review and approve conservation and cooperator plans
- Manage district finances (i.e., authorize budgets, pay bills, appropriate resources, etc.)
- Act on personnel matters (i.e., hire, reviews, etc.)
- Conduct executive sessions, as needed
- Report to the public and hear public comment

A. Public Meetings Law

A conservation district is considered a *governing body* and it is a *public body* according to ORS 192.610 and therefore subject to Oregon's public meetings law, ORS 192.620-192.710.

Furthermore, ORS 192.620 requires the public be notified and informed of the deliberations and decisions of governing bodies and the information upon which such decisions are made. Decisions of governing bodies must be arrived at openly.

Meetings of a district board must be open to the public unless *specifically* exempted by law. In order to be considered a meeting, a majority of the board (a quorum) must be present to make a decision or deliberate toward a decision on any matter.

An advisory board, committee or subcommittee, task force, or other official group that has authority to make recommendations to a public body on policy or administration also is required to comply with public meetings law.

A staff meeting is not covered under the Public Meetings Law because it does not require a quorum, and because staff simply make recommendations to the board

which is the policy-making body. If, however, a staff meeting includes enough board members as to constitute a quorum, then it must be open to the public.

Public Meetings Law is not a "public participation law." The right of the public to attend public meetings does not include the right to participate by giving testimony or comment. However, the public must be allowed to give comment on the employment of a public officer or the standards to be used in hiring a chief executive officer.

Federal agencies, on the other hand, are not subject to Oregon's Public Meetings Law.

All districts should obtain a copy of the *"Attorney General's Public Records and Meetings Manual"*. The public records and meetings law manual is revised after each legislative session. To stay current with changes in the law, districts should obtain the most recent copy of the manual. Copies can be obtained from:

Oregon Department of Justice
Publications Section
1162 Court St., NE
Salem, Oregon 97310
Phone: (503) 378-5555
http://www.doj.state.or.us/pros/pros_mli.htm

The public records and meetings manual includes the latest legal requirements on such topics as:

- Governing bodies subject to the law
- Authority to make decisions for the public body
- Public meeting quorum requirements
- Subject of meetings and social gatherings
- Electronic communication
- Public notice for meetings
- Special meetings
- Emergency meetings
- Executive sessions
- Space and location of meetings
- Nondiscriminatory locations for meetings
- Meeting location accessibility to persons with disabilities
- Public attendance at meetings
- Control of meetings

The following is a list of questions and answers commonly asked regarding public meetings law.

1. *What is a "public" meeting?*

The law defines a public meeting as the convening of a governing body for which a quorum is required to (a) deliberate to make a decision or (b) deliberate toward a decision on a matter, ORS 192.610(5). A quorum of the conservation district board must be present for the board to make decisions. All official actions of the conservation district board must be taken by open public vote (no secret ballot).

2. *What is a quorum?*

ORS 174.130 defines quorum as a majority, and ORS 568.570 states a majority constitutes a quorum. When determining a quorum for a conservation district board, a majority of the board positions must be present, whether or not all board positions are actually filled at the time.

- A seven-position board must have at least four directors present.
- A five-position board must have at least three directors present.

3. *What should a board do if it discovers it has violated Public Meetings Law by making a formal decision without having a quorum present?*

ORS 192.680(1) states:

(1) A decision made by a governing body of a public body in violation of ORS 192.610 to 192.690 shall be voidable. The decision shall not be voided if the governing body of the public body reinstates the decision while in compliance with ORS 192.610 to 192.690. A decision that is reinstated is effective from the date of its initial adoption.

4. *Does an advisory board, council, subcommittee, task force, and other official group have to comply with Public Meetings Law?*

Any advisory board, council, subcommittee, task force, or other official group that has been granted authority by the board to make (a) recommendations to or (b) decisions on behalf of the board on policy or administration is a considered a "governing body", and, therefore, must adhere to Public Meetings Law.

5. *Can several district directors meet informally, outside the monthly board meeting, to discuss district business?*

If a quorum of the governing body meets to discuss district business outside the jurisdiction of the publicly advertised district board meeting, they are violating Public Meetings Law. A quorum of the district directors of a board may attend a social gathering together but they may not deliberate toward or make a decision regarding district business unless the district advertised the gathering as a place and time where the district would conduct official business.

District board committees or subcommittees to which a majority of the board positions have been appointed must comply with Public Meetings Law by advertising the meetings as well. Likewise, if a district board has five positions, two directors are appointed to a committee, the committee meets without providing public notice and a third director shows up just to listen, the committee is in violation of Public Meetings Law because a majority of the board director positions are present. The same would be true for a seven position board in which three members were appointed to a committee and a fourth director shows up just to listen.

In addition, ORS 192.610(3), if two or more members of any public body have "the authority to make decisions for or recommendations to a public body on policy or administration," they are a "governing body" for purposes of the meetings law. A three-member subcommittee of either a five or a seven-member board must comply with Public Meetings Law, by advertising its meetings, if the sub-committee is authorized by the board to make decisions or advise the board on a matter. A sub-committee that has authority only to gather information, however, is not considered a governing body and is not required to advertise its meetings.

6. *Are conservation district "retreats" subject to Public Meetings Law?*

According to the Attorney General's manual, the answer depends on the matters discussed at the retreat. If the retreat were confined, for instance, to training and personal interaction, the Public Meetings Law would not apply. However, if at the retreat the governing body deliberates or makes a decision on official business, the law applies (i.e., a public notice must be published, minutes prepared, and the location needs to be consistent with public meeting laws).

7. *May a quorum of members of a governing body participate in a "community retreat" sponsored by a chamber of commerce?*

Yes, so long as they avoid getting together as a group for any deliberations.

8. *What of a "retreat" for employees and administrators of the public body, attended by members of the governing body?*

Such a "retreat" can be organized to avoid the meeting of a quorum of the governing body for the purpose of gathering information or "deliberation" toward decisions on matters within their responsibility. However, it also is very easy for information gathering or policy deliberations by members of the governing body to occur, in violation of the Public Meetings Law.

9. *Are there limitations on where the conservation district board can hold its meetings?*

Yes. A conservation district board

- (1) May not hold a meeting in a facility in which discrimination is practiced, and
- (2) Must hold its meetings in a facility that is accessible by everyone, including those with disabilities.

If a district uses a facility which discriminates on the basis of race, creed, color, gender, age, national origin, or disability, it is out of compliance with the Civil Rights Act of 1964, as amended, and the Americans With Disabilities Act. For example, if a district's usual meeting place is on the second floor of a building that has no wheelchair access to that floor, i.e., an elevator or other device, the district is out of compliance with the Americans With Disabilities Act. Each conservation district should become familiar with the requirements of these two Acts and insure compliance.

10. *May a conservation district board hold its meetings outside the geographic boundaries of its jurisdiction?*

Yes. According to ORS 192.630(4):

Meetings of the governing body of a public body shall be held within the geographic boundaries over which the public body has jurisdiction, or at the administrative headquarters of the public body or at the other nearest practical location. Training sessions may be held outside the jurisdiction so long as no deliberations toward a decision are involved. A joint meeting of two or more governing bodies or of one or more governing bodies and the elected officials of one or more federally recognized Oregon Indian tribes shall be held within the geographic boundaries over which one of the participating public bodies or one of the Oregon Indian tribes has

jurisdiction or at the nearest practical location. Meetings may be held in locations other than those described in this subsection in the event of an actual emergency necessitating immediate action.

NOTE: According to the Attorney General's Public Records and Meetings Manual, "these requirements are alternatives, which were added to deal with some small districts that maintain administrative offices, sometimes without meeting facilities, outside the boundaries of the district.

11. *Can public meetings be held by telephone conference calls or other electronic communications?*

Yes. Notice to the public must be given, and the board must provide at least one place where the public can listen to the meeting by speakerphone or other devices. The minutes of the meeting must reflect that it was held by teleconference and that provisions were made for the public to hear the conversation and decisions.

12. *Are interpreters required to be provided at meetings?*

Districts should make every effort to provide an interpreter for a disabled person. ORS 192.630(5) specifies:

- (a) It shall be considered discrimination on the basis of disability for a governing body of a public body to meet in a place inaccessible to the disabled, or, upon request of a hearing impaired person, to fail to make a good faith effort to have an interpreter for hearing impaired persons provided at a regularly scheduled meeting. The sole remedy for discrimination on the basis of disability shall be as provided in ORS 192.680.
- (b) The person requesting the interpreter shall give the governing body at least 48 hours' notice of the request for an interpreter, shall provide the name of the requester, sign language preference and any other relevant information the governing body may request.
- (c) If a meeting is held upon less than 48 hours' notice, reasonable effort shall be made to have an interpreter present, but the requirement for an interpreter does not apply to emergency meetings.
- (d) If certification of interpreters occurs under state or federal law, the Oregon Disabilities Commission or other state or local agency shall try to refer only certified interpreters to governing bodies for purposes of this subsection.
- (e) As used in this subsection, "good faith effort" includes, but is not limited to, contacting the Oregon Disabilities Commission or other state or local agency that maintains a list of qualified interpreters

and arranging for the referral of one or more such persons to provide interpreter services.

The Attorney General's Public Records and Meetings Manual states:

"The Americans with Disabilities Act may impose requirements beyond state law. The ADA requires public bodies to ensure that their communications with persons with disabilities are as effective as communications with others. For individuals with hearing impairments who do not use sign language, other means of communication, such as assertive listening devices, may be necessary. If the meeting is held by electronic means, the needs of persons with vision or hearing impairments may need to be considered. Also, if written materials will be used during the public meeting, the governing body must make the material available, when requested by individuals with vision impairments, in a form usable to them, such as large print, Braille, or audiotapes. A public body cannot charge a person with a disability to cover the cost of providing such additional aids and services."

13. *Is an on-site inspection outside the public body's jurisdiction subject to the Public Meetings Law?*

No. On-site inspections are not "meetings" subject to the meetings law.

14. *With whom are complaints or suits filed by a person who feels a conservation district has not complied with Oregon's Public Meetings Law?*

ORS 192.680(2) states complaints or suits in regard to an alleged violation of the public meetings law are filed with the circuit court of the county in which the board ordinarily meets.

B. Voting Requirements

1. *What constitutes a quorum?*

Oregon Revised Statutes (ORS) Chapter 568 addresses the issue of quorum for conservation districts.

ORS 568.570 **Majority constitutes a quorum.** A majority of the directors constitutes a quorum. The concurrence of a majority in any matter within their duties is required for its determination.

Oregon's Public Meetings Law does not define *quorum*. However, ORS 174.130 defines quorum as a majority, and ORS 568.570 states a majority constitutes a quorum. A quorum for a conservation district board means a

majority of the board **positions** must be present (e.g., a seven-position board must have at least four directors present and a five-position board must have at least three directors present), whether or not all positions are actually filled at the time. If there is a gathering of less than a quorum at a meeting, under Oregon's Public Meetings Law, **no binding decisions can be made.**

2. *How many affirmative votes are required to take official action or pass a motion at a Conservation District Board Meeting?*

The *Attorney General's Public Records and Meetings Manual*, (October 1, 2001 version) addresses this question in detail in Appendix C, pp 2-3. Here are a few excerpts from those pages:

B (1). Attorneys General have consistently advised that this statute requires a majority of **all** members of a board, commission, or council to concur in order to make a decision. When ORS 174.130 applies, a majority of those present and voting in favor of a particular action is **not sufficient** to authorize that action **unless** that majority is more than one-half of the **total members** of the board, commission or council. (emphasis added)

What this means is that a majority vote is required of all elected directors of the district for the determination of an item. The following is an example for a conservation district with a seven-member board:

If four board members are present, and only three members vote in favor of a motion, the motion will have insufficient votes to pass, because three votes will not provide concurrence of the majority of the governing body. With four members present, all board members need to vote in favor of a motion for it to pass. If five or more members are present, and there are at least four votes in favor of a motion with one or more against, the motion will pass because there is concurrence of the majority of the governing body.

The same principle applies for a five-member board. A minimum of three votes is required to pass a motion of a five-member board.

The *Attorney General's Public Records and Meetings Manual* provides guidance about situations where other statutes define a quorum. Appendix C, B(2), pp 3-4, states:

Many boards and commissions have statutes designating the **number** of members that form a quorum. Such a statute releases a body from the

stringent requirements of ORS 174.130. Most of these statutes, but not all, fix the quorum at a majority of the members of the body. (emphasis added)

Conservation districts do not have statutes designating the **number** of members required to form a quorum. Therefore, the more stringent requirements of ORS 174.130 apply.

3. *Is consensus an appropriate decision-making method for official board decisions?*

Since there are varying descriptions and levels of consensus, it is recommended that district boards make official decisions by recording votes. A board may be in consensus on a particular issue, but it is recommended that boards make decisions based on the votes of the members present.

4. *Can conservation district directors vote by "secret ballot"?*

No. All conservation district decisions must be made by public vote. **Secret ballots are prohibited.** If the vote is unanimous, the minutes can state such, as long as the directors present at the time of the vote are identified in the minutes. However, if the vote is not unanimous, the vote of each member must be recorded by name in the minutes. Written ballots are permitted, but each ballot must identify the member voting and the vote must be announced.

5. *Can associate directors and directors emeritus vote when the district board makes official decisions?*

No. Associate directors and directors emeritus are not voting members of the board.

6. *If there are not enough directors at a conservation district board meeting to have a quorum, can the district call a board director who is not in attendance on the phone to get his/her vote on an agenda item?*

Only if the district board has provided a speakerphone or other device by which everyone in attendance at the district board meeting can hear the conversation provided by the director who has been called. If the district uses this procedure, the minutes must state that the vote was cast in that manner and that meeting participants heard the conversation on a speakerphone or other device.

C. Executive Session

1. *What is an "executive session"?*

ORS 192.610(2) outlines the requirements of an executive session. An executive session is a meeting that is closed to certain persons or organizations for the purpose of discussing sensitive matters. Districts have the authority to call an executive session when discussing the following subjects:

- a. Employment of Public Officers, Employees, and Agents – A meeting to discuss the specific hiring of a public officer, employee, or staff member. An "individual agent" for this purpose means an independent contractor.
- b. Discipline of Public Officers and Employees – A meeting called to discuss the discipline or termination of a public officer, employee, or staff member, unless the person asks for an open hearing.
- c. Performance Evaluations – A meeting to review the performance of a chief executive officer, other officers, employees, and staff members of the district.
- d. Labor Negotiations – Labor negotiations can be held in an open meeting unless both sides of the negotiations request that they be held in executive session. Labor negotiations are not subject to noticing requirements contained in Public Meetings Law.
- e. Exempt Public Records – If any of the records considered exempt from Public Records Law are discussed at a meeting then the district may hold an executive session.
- f. Trade and Commerce - To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competitions with governing bodies in other states or nations.
- g. Legal Counsel – A meeting may be held in executive session for the purpose of consulting with legal counsel concerning the legal rights and duties of current litigation or litigation likely to be filed. The governing body must bar any member of the news media from attending the executive session if the member of the news media is a party to the litigation or is an employee, agent or contractor of a news media organization that is a party to the litigation.
- h. Real Property Transactions – A meeting to discuss or negotiate on a property transaction.
- i. Public Investments – An executive session may be called to negotiate with private persons or businesses regarding proposed acquisition, exchange or liquidation of public investments.
- j. Public Hospital Medical Staff – Meetings that relate to the medical competency of a hospital and the hospital's staff.
- k. Health Professional Licensee Investigation – Meetings that consider information obtained as part of an investigation of licensee or applicant conduct.

- I. Other Executive Session Statutes – Statutes outside the meetings law authorize governing bodies to hold executive or closed sessions, sometimes without cross-reference Public Meetings Law. For example, ORS 322.061 authorizes school boards to consider student expulsion and confidential medical records of students in executive session, notwithstanding the Public Meetings Law.

2. ***May a conservation district board reach a decision in an executive session?***

No. The conservation district board may not reach a final decision in executive session, but it may informally decide or reach a consensus. The board must then go to public session to act formally on the matter.

3. ***What if the decision is to take no action? For example, a complaint with respect to a public official, informally concluded to be without sufficient merit to warrant discipline?***

It is appropriate but probably not required to announce in public session that the matter was not resolved, that no decision was reached, or that in the absence of a motion for action, no action will be taken. If, however, a final "no action" decision is made by vote of a quorum of a governing body, the decision probably must be made and announced in public session.

4. ***Is a public notice required to hold an executive session that is not associated with a regularly scheduled board meeting?***

Yes. If the district wants to hold an executive session that is separate from the regularly advertised district board meeting, the executive session must be advertised in the same manner as a regular board meeting. As an additional requirement the statutory authority, (ORS 192.640(2)), for calling the executive session must be set forth.

REMEMBER: No final decisions can be made in executive session. The board needs to make all decisions at public meetings.

5. ***Can an executive session be called during a regular district board meeting without having advertised the executive session as part of the board meeting agenda?***

Yes. An executive session can be called during a regular board meeting that has been publicly advertised, even though the executive session was not part of the meeting advertisement. However, the person chairing the board meeting must announce the statutory authority for the executive session, ORS 192.640(2), before going into executive session. The reason for the executive session must be one of the twelve acceptable categories previously identified.

6. *If the media requests to attend an executive session, must the district grant the request?*

Yes. Public Meetings Law expressly provides that the news media shall be allowed to attend executive sessions. However, the district board can require that specified information in the executive session not be disclosed by the media. If the district board wishes to exercise non-disclosure, they must first inform the media of the restriction.

7. *May a governing body restrict the number of media representatives attending an executive session?*

Perhaps. A governing body probably would be able to limit attendance to one representative of each medium wishing to be represented. It should be reasonable to limit total attendance to a number that would not interfere with its deliberations.

8. *May a reporter who has a personal stake in a matter, or who has a close relationship to someone who is personally interested, be excluded from a special session?*

The law does not provide, but if the attendance of a reporter with direct personal interest would frustrate the purpose of the executive session, a governing body could justify barring the individual.

9. *Must reporters be permitted access to executive sessions conducted by electronic conference?*

Yes.

10. *If during an executive session, the members of the governing body discuss matters outside its proper scope, what is the proper role of media present? May they begin taking notes?*

The Public Meetings Law does not prohibit media representatives from taking notes of executive sessions they attend, whether or not the discussion includes matters outside the lawful scope of the executive session. The law merely permits the governing body to require that specified information discussed during executive session not be disclosed.

11. *May the conservation district board permit persons other than the media to attend an executive session?*

Yes. Executive sessions are generally closed to all except members of the governing body. The governing body may invite or approve other specified persons to attend.

12. *Are minutes from an executive session required and how should they be kept?*

Minutes of an executive session are required. ORS 192.650(2) allows that a record of any executive session may be kept in the form of a sound tape recording, which need not be transcribed unless otherwise provided by law. If the disclosure of certain material is inconsistent with the purpose

for which a meeting under ORS 192.660 is authorized to be held, that material may be excluded from disclosure. However, excluded materials are authorized to be examined privately by a court in any legal action and the court shall determine their admissibility.

13. *May a governing body reviewing or evaluating a public employee's performance in executive session exclude the employee from attending?*

If the employee requests a public session, the meeting must be held in public, and the employee may not be excluded. If the employee makes no such request, then the employee may be excluded.

14. *With whom are complaints or suits filed concerning executive sessions?*

Complaints concerning violations of **executive session** law are made to the Oregon Government Standards and Practices Commission, 100 High St., SE, Suite 200, Salem, OR 97310, (503) 378-5105, for review and investigation. The Commission may impose civil penalties not to exceed \$1,000 for violating any provisions of ORS 192.660.

The Attorney General and district attorneys have no enforcement role under the Public Meetings Law.

D. Notice Requirements

Is the conservation district board required to give public notice of its meetings?

Yes, public notice must be given and must provide the time and place of the meeting. Public Meetings Law requires that a notice of any meeting include a list of the principal subjects anticipated to be considered at the meeting. The notice of meeting should be provided far enough in advance of the meeting to give interested persons an opportunity to attend.

A meeting without proper notice is a violation of Public Meetings Law.

1. Meeting Notices

Participants, including the general public, should be notified well ahead of the meeting as a courtesy to the public. Notice should be posted a minimum of one week in advance of the meeting. It is also advised that the district create and provide to the public an annual calendar of regular board meetings.

The public must be notified of the time and place of district board meetings. Also, the district board must give notice to the persons and the media that have stated in writing that they wish to be notified of every meeting.

PLEASE NOTE!

Just posting a notice on your office bulletin board is not adequate notice!

The notice of any meeting that will include an executive session should be given to the media and to the public. The notice must state that the executive session is not open to the public and include the statutory reason why it is not.

The public must be provided with an agenda for all regular, special, and emergency meetings. The agenda need not go into detail but it must include a list of the principal subjects anticipated to be considered at the

meeting. It must be clear enough that interested persons will have an accurate idea of what the meeting will cover.

Not every proposed item of business is required to be on the agenda. The district must make a "reasonable" effort to include all of the important items, but if an additional subject arises too late to be mentioned in the notice, it may still be discussed at the meeting.

The following are suggested ways to meet the public meetings requirement for regular meetings, special meetings, and emergency meetings.

Regularly Scheduled Meetings – Press releases should be issued to:

- A. Wire Service – Associated Press and United Press International.
- B. Local Media Representatives – If the meeting involves a local matter, then the notice should be sent to local media.
- C. Mailing Lists – Districts maintaining mailing lists of persons or groups for notice of public meetings should send notice to the persons on the list.
- D. Interested Persons – If a district is aware of persons interested in receiving notice of a meeting, these persons should be notified.
- E. Notice Boards – Some smaller communities have a designated area or bulletin board for posting notices. Governing bodies may want to post notices of meetings in such areas.

Please note that press releases do not need to be paid for.

Special Meetings – Special meetings require at least 24-hour notice. Press releases should be given to wire services, interested persons, and news media requesting to be notified.

Emergency Meetings – Meetings are considered an emergency if they are called with less than 24-hours notice. An actual emergency must exist and the minutes must describe the reason for the emergency. The district must still make an effort to contact the media and issue public notice.

2. Commonly Asked Questions and Answers

1. ***How far in advance must a public body give notice of its meetings?***

Far enough in advance reasonably to give interested persons actual notice and an opportunity to attend. Because the notice must specify the principal subjects to be covered, it must be given separately for each meeting (i.e., even though the public and news media know that the district board meets every Wednesday evening, the district must provide adequate notice of each meeting as required by statute).

2. ***Is a notice on a bulletin board sufficient?***

No.

3. ***Must meeting notices be published as legal notices?***

No.

4. ***May a governing body issue a single notice for a "continuous session" that may last for several days?***

Probably yes, if the body can identify the approximate times that principal subjects will be discussed.

5. ***Does the Public Meetings Law notice requirement require the purchase of advertising?***

No, it requires only appropriate notice.

6. ***Must a notice be posted for a meeting that is exclusively an executive session?***

Yes. The notice requirements are the same and must include statutory authority for the executive session.

7. ***Is a meeting without proper notice an illegal meeting?***

A meeting without notice violates the Public Meetings Law.

8. ***If a news medium requests notice of meetings, is it sufficient for that notice to be mailed "general delivery" to that news medium?***

Probably yes, if mailed far enough in advance. It is up to the news medium to establish procedures to ensure that the proper person receives the notice. For a special or emergency meeting, a telephone call to a responsible person is necessary.

9. ***Is a media request to receive notice of any meetings sufficient to require notice of special and emergency meetings?***
Yes.

E. Meeting Management and Arrangements

District boards with strong meeting skills usually have the following traits:

- Clear and detailed agendas
- Stay on schedule
- Run effective meetings

These boards have higher levels of satisfaction and participation of board members and attendees. They also find it easier to recruit new directors and volunteers.

Districts that do not have well-planned agendas have meetings that

- Run unnecessarily long,
- Do not complete agenda items, and
- Otherwise demonstrate poor meeting management

give the appearance to the public and partners that they are not professional or efficient, tend to have poor participation and support by board members and the public, and have a difficult time in recruiting board members and volunteers.

1. Meeting Agendas

An agenda is an important tool for planning and holding effective meetings. An agenda identifies:

- All items to be brought before the board for discussion
- Persons responsible for facilitating/providing the information
- Timeline for discussions and action

Items may be added to or modified on the agenda, but districts should make every effort to follow the agenda as a courtesy to the public and invited guests.

Each district should determine and develop its own procedures for holding meetings. It is customary that the chair serves as presiding officer over meetings and it is therefore his or her responsibility to follow the agenda. The presiding officer or the board itself may elect to appoint a person to facilitate a discussion on a topic or issue. This person can be a board member, staff, volunteer, or consultant. The person's role as facilitator will be to lead the board through a discussion and lead the group through decision-making processes. While following the agenda is important, meetings should be conducted in such a manner as to provide a full and fair opportunity for discussion of the issues in an efficient and timely manner.

Many districts have a policy to contact board members and committee members by telephone a day or two before the meeting to encourage good participation. Setting a yearly calendar for all board meetings will help people know in advance when meetings will take place.

2. Meeting Time Limits

As a courtesy to board members, staff, partners and the public, conservation districts are encouraged to limit their meetings to two hours.

Ways to shorten meeting times include:

- Well planned agenda.
- Presiding officer (or appointed time keeper) keeps group on schedule and on task.
- Group decision to postpone, assign to committee, or eliminate items from the agenda.
- Advance written or emailed reports from staff, committee chairs, treasurer, etc., provided to the board for review in advance of the meeting, using the meeting time for "highlights".
- Utilize established policies and procedures for conducting meetings (Roberts Rules of Order, district policies and procedures, etc.).
- Assign responsibilities to investigate and prepare background information on an item to be discussed (i.e., location for annual meeting, new equipment specifications, etc.).
- If it is determined during the course of the meeting that more information is needed on an agenda item, assign to a person/committee to gather information.
- Schedule a second meeting to discuss topic or move agenda item to the end.
- Be courteous when scheduling invited guests/participants. Advise them of their time limit and when they will be presenting. Accommodations should be made for travel times, efficiency of meeting time, etc., when scheduling speakers.
- Define the action requested of the board. Clearly identify what the board is asked to do. Separate items into "action" items and "discussion" items.

3. Meeting Arrangements

Pay close attention to meeting arrangements. Plan in advance for:

- A comfortable room
- Parking
- Directional signs
- Refreshments
- Audio-visual equipment (i.e., easels, easel pens, masking tape, slide projectors, overhead projectors, and extension cords)

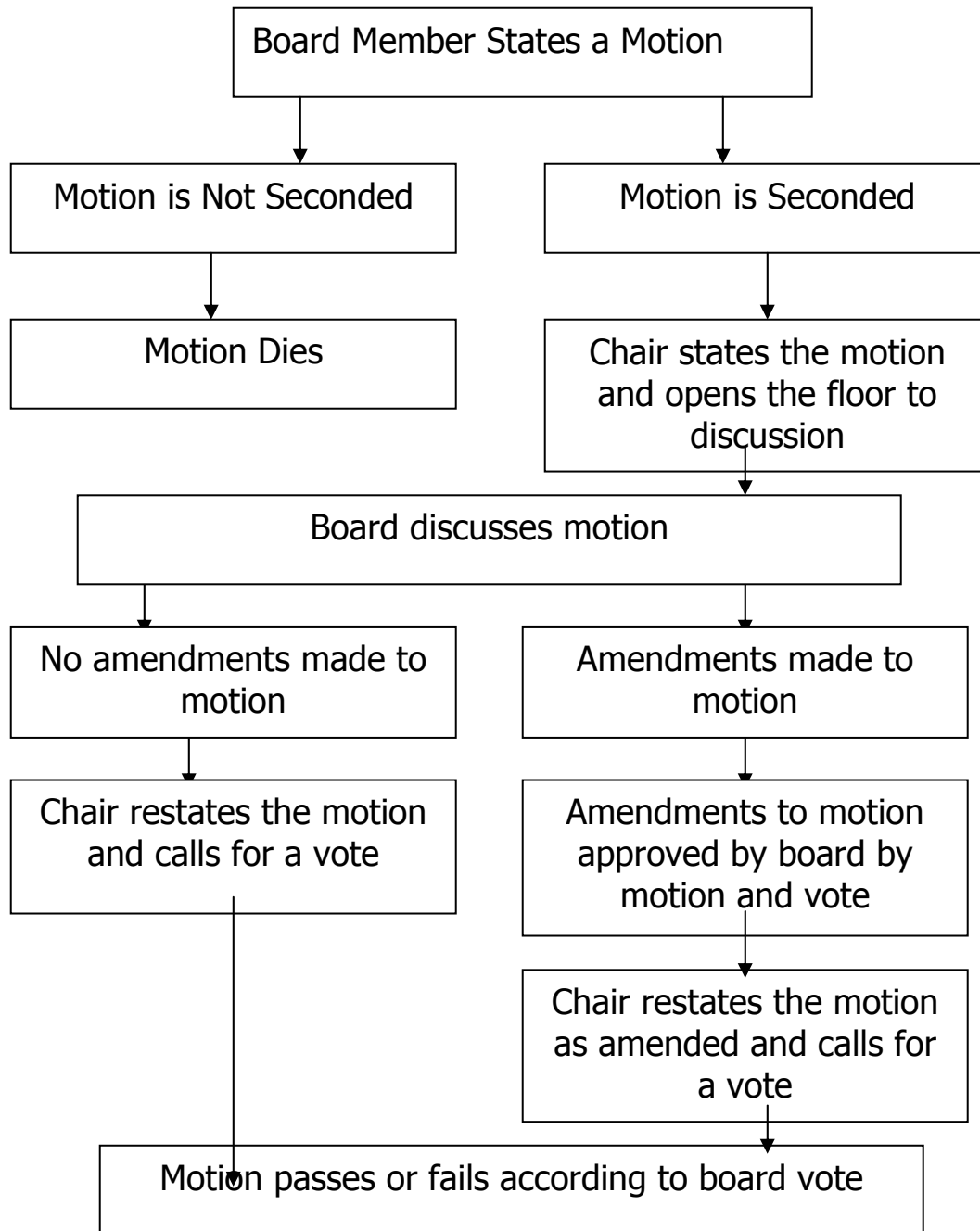
Arrange the meeting room so everyone has as much face-to-face contact with everyone else in the room as possible. If members of the general public are present, or if the district invites guest presenters, use nametags with large letters or nameplates to help participants know who's present.

F. Parliamentary Procedure

It is highly recommended that districts adopt and follow procedures for conducting meetings, particularly regarding official action by the board.

Many districts find that Robert Rules of Order (or a modified version) is a useful process for conducting meetings. Districts need to formally adopt a decision-making process and make sure that all board members understand the policy. An outline of the procedures for motions and voting, or a flow chart demonstrating the procedure (similar to the one below), may be useful in outlining the district's policy.

Sample District Meeting Motion Policy



G. Control of Meetings

The presiding officer in a public meeting has inherent authority to keep order and to impose any reasonable restrictions necessary for the efficient and orderly

conduct of a meeting. If public participation is to be part of the meeting, the presiding officer may regulate the order and length of appearances and limit appearances to presentations of relevant points. Any person who fails to comply with reasonable rules of conduct or who causes a disturbance may be asked or required to leave and upon failure to do so becomes a trespasser. However, it is questionable whether a governing body may exclude a member of the public because the person engaged in misconduct at a previous public meeting.

1. *Does the Public Meetings Law grant the public the right to testify before the conservation district board?*

No. The Public Meetings Law is a public attendance law, not a public participation law. It does not give the public the right to interact with the conservation district board during its meeting. The board, however, may request public participation or provide some time on the agenda for public comment.

2. *What can be done if a person causes a disruption in a board meeting and refuses to comply with reasonable rules of conduct?*

The presiding officer has inherent authority to keep order and to impose any reasonable restrictions necessary to conduct an efficient and orderly meeting. Any person who isn't willing to follow the rules or restrictions imposed, or causes a disturbance, may be asked or required to leave, and if he/she refuses to do so becomes a trespasser and may be arrested.

3. *May a person who has disrupted prior meetings, assaulted board members, etc. be excluded from a public meeting?*

It is doubtful that a person may be excluded for prior conduct. The person who causes the disruption may be arrested for trespass.

H. Public use of Tape Recorders, Cameras and Microphones

The Attorney General has "concluded that members of the public cannot be prohibited from unobtrusively recording the proceedings of a public meeting."

1. *Can anyone tape a district board meeting?*

Yes. Anyone can tape record or videotape a meeting, subject to reasonable rules of the conservation district board to avoid disruption.

2. *Must the governing body be informed of the intent to tape record?*

No.

I. Smoking at Public Meetings

ORS 192.710 "provides that no person may smoke or carry a lighted cigar, cigarette, pipe or other smoking equipment in a room where a public meeting is being held or is to continue after a recess."

1. *Does the meeting law's smoking prohibition apply to executive sessions?*

The prohibition applies if the executive session is held in the same room in which the public meeting later will continue. However, the executive session itself probably is not a public meeting and, if held in a separate room, is not covered by the prohibition.

J. Minutes of Meetings

Minutes provide a written record of the proceedings of the meeting, are considered "public record", and must be made available to the interested general public. The minutes of conservation district board meetings must be submitted to the Natural Resources Division of the Oregon Department of Agriculture. The Natural Resources Division reviews the minutes and submits a copy of the minutes to the state Archives for permanent record.

A copy of the meeting minutes should be sent to:

- ***Natural Resources Division***
- ***SWCC member for the area***
- ***NRCS Portland office***
- ***NRCS basin team leader***
- ***OACD President***
- ***OACD Executive Director***

ORS 192.650 requires districts to keep written minutes of all meetings.

ORS 192.650

- (1) The governing body of a public body shall provide for the taking of written minutes of all its meetings. Neither a full transcript nor a recording of the meeting is required, except as otherwise provided by law, but the written minutes must give a true reflection of the matters discussed at the meeting and the views of the participants. All minutes shall be available to the public within a reasonable time after the meeting, and shall include at least the following information:
- (a) All members of the governing body present;
 - (b) All motions, proposals, resolutions, orders, ordinances and measures proposed and their disposition;
 - (c) The results of all votes and, except for public bodies consisting of more than 25 members unless requested by a member of that body, the vote of each member by name;
 - (d) The substance of any discussion on any matter; and
 - (e) Subject to ORS 192.410 to 192.505 relating to public records, a reference to any document discussed at the meeting but such

reference shall not affect the status of the document under ORS 192.410 to 192.505.

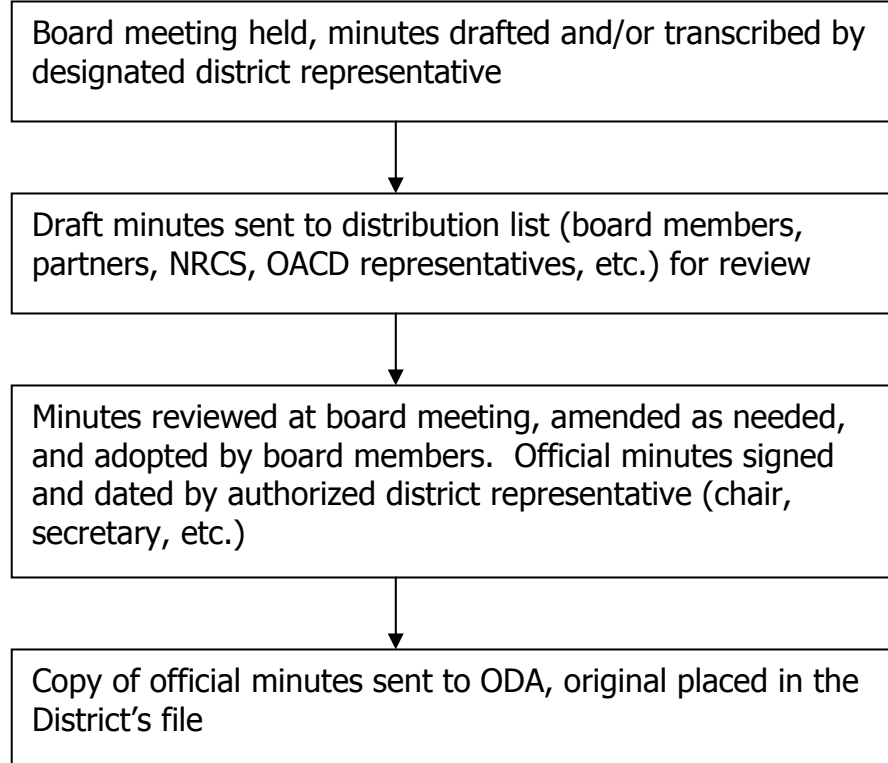
Minutes of executive sessions should be kept separately from minutes of public meetings.

It is recommended that minutes be distributed as soon as possible after the meeting. Minutes distributed to board members and participants have a written reference to commitments they made and can note corrections or additions to the minutes while the meeting is still fresh in memory.

It is highly recommended that districts adopt policies on how minutes are approved and distributed. Suggestions for policies include:

1. Board reviews minutes at next regular board meeting
2. How minutes are amended
3. Adoption of minutes
4. Designated signer (Board members, Chair, Secretary, etc.) of approved minutes
5. Distribution of minutes

Example Flow Chart for Minutes Distribution



1. ***Do board meeting minutes need to be written verbatim?***
No. Meeting minutes need not be written verbatim transcript. There should be enough detail to provide an adequate reflection of subjects discussed, views of board members and participants, particularly if contrary views are expressed, and record of final disposition.
2. ***Can board meeting minutes be withheld from the public because the minutes will not be approved until the next board meeting?***
No. After the board meeting minutes are prepared they cannot be withheld from the public even though they have not yet been approved by the board. Minutes must be prepared and available within a "reasonable time after the meeting." ORS 192.650(1). It is advisable, however, to mark any copies provided to the public, before they are approved by the board, as a "DRAFT". Upon review and approval of minutes, the final minutes should be signed and dated for the official record.
3. ***How long must written minutes of conservation district board meetings be kept?***
Under the authority of ORS 192.105, the Secretary of State's Archives Division produces records retention schedules that direct public agencies

in the retention or disposition of their records. The records of conservation districts are addressed on the retention schedule of the Oregon Department of Agriculture, who provides oversight for the districts. The department's retention schedule requires conservation district minutes be retained permanently. Therefore, conservation districts must keep their board meeting minutes on file permanently.

Because of the importance of maintaining and keeping permanent records, the district should identify and use a secure storage facility for keeping permanent, confidential, and other important records such as minutes, personnel records, financial documents, etc. The following are some suggested facilities:

- Off-site storage
- Fire-proof safe or storage cabinet
- Bank vaults

IX. District as Employer

Conservation districts have come a long way from a time when directors themselves did most of the district's conservation work and functions with a very limited budget and the assistance of part-time or volunteer help. In reality, the on-the-ground conservation planning was done by district partners, particularly NRCS field staff. A number of influences have dramatically changed that situation to the conditions we have today:

- Increased consumer demand
- Decrease in federal funding for NRCS staff
- New regulations and requirements for water quality, natural resources, and species protection
- Higher public expectations for local governments to address natural resource concerns
- Increased pressure from advocacy and environmental groups for action

All of these factors have created the need for skilled, professional-level conservation district staff. With paid staff come levels of responsibility and liability which some directors were not previously accustomed to or familiar with. As districts employ new staff, there come a number of required personnel obligations and compliance requirements ranging from hiring practices to tax reporting. Therefore, the need to have well-defined district policies and procedures, trained staff, and directors knowledgeable in personnel matters is essential.

In addition to managing paid staff, directors are responsible for managing volunteers, associate directors, and themselves.

A. Legal Responsibilities of an Employer

When a district hires an employee, the district is subject to the legal responsibilities of being an "employer." The following are some of the legal responsibilities of being an "employer." Districts may also contract for various services with independent contractors. Independent contractors are not employees and are addressed differently according to Public Contract Law. Rules associated with independent contractors is covered at the end of this section.

1. Register as an Employer:

Oregon employers are required to register with the State of Oregon. This should be done prior to hiring an employee. Oregon Department of Revenue's *Combined Employer's Registration Form* 150-211-055 is used for this purpose. A copy of this form is to be included with the district's official file.

NOTE: All districts need to ensure that they have a copy of this form in their file.

2. State Withholding Tax:

All Oregon employers must withhold state taxes from an employee's wages when the employee is paid. For most Oregon employers, due dates for paying state withholding taxes are the same as the due dates for making federal withholding taxes, and Social Security and Medicare tax deposits. All Oregon employers must file withholding tax returns in addition to making the required payments. The Oregon Department of Revenue publication, *Oregon Withholding Tax Tables*, (150-206-430) provides information on the rate of tax withholding for employers. Once an employer is registered, it must file an Oregon Quarterly Combined Tax Report form, even if it does not have a payroll during that quarter. The Oregon Quarterly Combined Tax Report form combines the State Withholding Tax and the Unemployment Tax (#4 below) reporting requirements.

3. Federal Income Tax and Social Security Tax:

All employers must obtain a federal employee identification number (EIN) by completing and submitting Internal Revenue Service (IRS) Form SS-4, *Application for Employer Identification Number*. Employers are required to withhold federal income and social security taxes. Information may be obtained from the IRS for withholding rates and schedules.

4. Unemployment Tax:

Employers are required to pay unemployment tax and file an Oregon Quarterly Combined Tax report form even if they have no payroll during the reporting period.

The entire cost of unemployment insurance in Oregon is supported by employers. For the purpose of unemployment taxes and benefits, conservation districts are considered **political subdivision employers**, and, as such, have three tax reporting options available to them. For more information regarding these issues, districts should contact either the Oregon Department of Revenue or the Oregon Employment Division.

5. Worker's Compensation Insurance:

All Oregon employers are subject to the Oregon Workers' Compensation Law. Employers pay for the insurance premium and may split the "cents-per hour" cost with employees. An employer must obtain Workers' Compensation Insurance before hiring any employee. An employer may purchase this insurance from a commercial company or from the State Accident Insurance Fund (SAIF).

6. Year-end Tax Reporting Responsibilities

Employers are required to file year-end reports with state and federal authorities. Some of these forms include:

- Form-W2s for employees
- Form-W3s summaries for the federal
- Form-WRs for the state
- Form-1099 (for reporting payments to contractors or vendors)
- Form-1096 (summary of 1099s)

Districts should contact the IRS and the Oregon Department of Revenue for more information regarding requirements and to obtain copies of these forms.

7. Oregon Posting Requirements

Federal:

Federal Minimum Wage Poster

Who must post? All employers subject to the Fair Labor Standards Act.

Polygraph Protection Act Notice

Who must post? All employers engaged in commerce.

Family and Medical Leave Poster

Who must post? Employers with 50 or more workers during 20 weeks of the year.

Where to obtain the above posters:

U.S. Department of Labor
Wage and Hour Division
1515 SW 5th
Portland, OR 97201
Phone: (503) 326-3057

"The Law" Poster

Who must post? Employers with 15 or more employees during 20 weeks of the year (including employment agencies and labor organizations).

Where to order:

Equal Employment Opportunity Commission
Federal Office Building
909 First Avenue, Suite 400
Seattle, WA 98104-1061
Phone: (800) 669-3362

State Posting Requirements

State Minimum Wage Poster

Who must post? All employers in Oregon, except federal government employers.

Family Leave Poster

Who must post? Employers with 25 or more employees in Oregon.

Where to order these posters:

Technical Assistance for Employers
Bureau of Labor and Industries
800 N.E. Oregon St., #32
Portland, Oregon 97232

Job Safety and Health Poster

Who must post? Employers with one or more employees.

Where to order:

Department of Consumer & Business Services
Oregon OSHA Resource Center
350 Winter St., N.E., Room 430
Salem, OR 97310
Phone: (800) 922-2689 (Oregon only)

State Compliance Posting Requirements

Worker's Compensation Notice of Compliance

Who must post? All employers with one or more workers.

Contact:

Department of Consumer and Business Services
350 Winter Street N.E., Room 21
Salem, OR 97310
Phone: (503) 947-7815

Employment Insurance Notice (Form 11)

Who must post? Employers with at least a \$225 payroll in a calendar quarter and employers with one or more workers during 18 different weeks in a calendar year.

Contact:

Employment Department
Unemployment Insurance Tax Unit
875 Union Street N.E.
Salem, OR 97311
Forms Hotline: 503-947-1488, Option 3

For more details regarding posting requirements and to download copies of required forms, districts should visit
<http://www.boli.state.or.us/civil/postings.html>

A publication titled, *Oregon Business Guide* outlines many of the responsibilities of an employer and can be obtained from:

Business Information Center
Public Service Building, Suite 151
255 Capitol Street, NE
Salem, 97310-1327
Phone: (503) 986-2222
<http://www.sos.state.or.us/corporation/bic/bicintro.htm>

It is

essential that districts are familiar with personnel matters and that a thorough set of district personnel policies, including forms, are developed to reduce the district's risk for liability. Once policies have been developed, they should be reviewed on a regular basis for compliance with current laws and regulations. These policies will protect both the employee and the employer. District policies

should include appropriate hiring practices (including interview questions, application forms, etc.), grievance procedures, employee review, etc. For additional information regarding personnel policies, forms, and procedures, districts should contact:

Oregon Department of Agriculture
Natural Resources Division
635 Capitol Street, NE
Salem, OR 97301
Phone: (503) 986-4775

Oregon Employment Division
875 Union Street, NE
Salem, OR 97311
Phone: (800) 237-3710
<http://www.emp.state.or.us>

Special Districts Association of
Oregon
Special Districts Center
727 Center St., N.E.
Suite 208
Salem, Oregon 97301
Phone: (503) 371-8667
<http://www.sdao.com>

Oregon Association of Conservation
Districts
Attn: Executive Director
3867 Wolverine St, NE, Suite 16
Salem 97305-4267
Phone: (503) 566-9157
<http://www.oacd.org>

Bureau of Labor and Industries
<http://www.boli.state.or.us>

Portland: 800 NE Oregon St., #32
Suite 1070
Portland, OR 97232
Phone: (503) 731-4200

Bend: 2480 NE Twin Knolls Dr.
Bend, OR 97701
Phone: (541) 322-2435

Eugene: 1400 Executive Pkwy
Suite 200
Eugene, OR 97401
Phone: (541) 686-7623

Pendleton: 1327 SE 3rd St.
Room 110
P.O. Box 459
Pendleton, OR 97801
Phone: (541) 276-7884

Medford: 700 E. Main
Suite 105
Medford, OR 97501
(541) 776-6270

Salem: 3865 Wolverine Ave., NE
Building E
Suite 1
Salem, OR 97305-1268
Phone: (503) 378-3292

B. Equal Opportunity Employer

Conservation districts are subject to the following laws related to personnel matters:

- Federal Discrimination Laws
 - Title VII of the Civil Rights Acts of 1964: Prohibits discrimination on basis of race, color, sex, religion, or national origin.
 - Equal Pay Act of 1963: Prohibits different rates of pay based on sex.
 - Age Discrimination in Employment Act: Prohibits discrimination on the basis of age for people 40 and over.
 - Rehabilitation Act of 1973 (§503): Requires affirmative action in employment for disabled people.
 - Rehabilitation Act of 1973 (§504): Prohibits discrimination on the basis of a disability.
 - Vietnam Era Veterans Readjustment Act of 1974: Requires affirmative action in employment for Vietnam veterans and disabled veterans.
 - Executive Order 11246 as amended: Requires affirmative action in employment for women and minorities.
 - Civil Rights Act of 1968, Title VIII and Title IX: Prohibits discrimination in housing based on race, color, sex, national origin, religion, familial status, or handicap.
 - Immigration Reform and Control Act of 1986: Requires employers to complete an employment eligibility verification form on anyone hired after November 6, 1986.
 - Americans with Disability Act of 1990: Prohibits discrimination against qualified individuals with a disability in hiring, firing, compensation, advancement, training, and other terms, conditions, and privileges of employment.
- Oregon Discrimination Laws (Unlawful Employment Practices).
 - ORS 659.030: It is unlawful for a public employer to refuse to hire, or to fire, or to discriminate against an individual in compensation, terms, conditions or privileges of employment based on that individual's (1) race, (2) color, (3) religion, (4) sex, (5) national origin, (6) marital status, (7) age (where individual is 18 years or older), (8) expunged juvenile record, (9) association with anyone of a particular race, color, sex, national origin, marital status, age or religion, (10) family relationship, and (11) opposition to safety and health hazards.
 - Oregon law prohibits a public employer from discriminating against an individual because of his or her (1) mental or physical disability, and (2) application for workers' compensation benefits.
 - Oregon law also prohibits a public employer from (1) refusing to grant an employee's request for a parental leave of absence, (2) refusal to allow a female employee affected by pregnancy, childbirth or related

medical conditions or occurrences to transfer to a less strenuous or hazardous position or take a leave of absence.

- It is unlawful for any person, whether employer or employee, to aid, abet, incite, compel, or coerce an employer to violate the provisions of Oregon civil rights law (ORS 659.030).
- It is unlawful for an employer to fire, expel, or otherwise discriminate against anyone because he or she has opposed practices forbidden by civil rights law, or has filed a complaint or testified about a possible violation of the law (ORS 649.030).

Districts should be aware that this list is for advisory and guidance purposes. When developing or revising personnel policies and procedures, districts should contact the following agencies for guidance:

- Oregon Department of Agriculture
Natural Resources Division
- Bureau of Labor and Industries
- Oregon Association of Conservation
Districts
- Special Districts Association of Oregon

Directors are responsible for making the workplace safe, legal, and harassment-free.

District directors are responsible to see that undesirable working conditions, such as sexual harassment, do not exist at the work place.

As an equal opportunity employer the district directors must give all interested persons who qualify an opportunity to apply for any regular (not temporary) positions offered by the district. To insure that this happens, the district should advertise any position opening(s) it has, provide the necessary information to the local Employment Office, recruit potential employees, conduct an interview process, and select the person(s) for the position(s) available. In doing so the district must insure it does not violate ORS 659.030, which states that "it is an unlawful employment practice for an employer, because of an individual's race, religion, color, sex, national origin, marital status or age, if the individual is 18 years of age or older, to refuse to hire or employ or to bar or discharge from employment such individual."

Districts should develop policies that address discrimination against consumers and against employees based on hiring practices, review, and promotional practices, etc.

The Americans with Disabilities Act prohibits discrimination against disabled persons in the areas of employment, public accommodation, and public services. Title I of the Americans with Disabilities Act deals with private employment and prohibits discrimination against "any qualified individual with a disability" in all aspects of employment. Title III of the Americans with Disabilities Act requires that public accommodations make facilities and services accessible to the disabled. For more information, contact the Bureau of Labor and Industries, (503) 731-4073.

C. Employee vs. Independent Contractor

Most conservation districts hire employees, but some also acquire the services of independent contractors through a personal services contract process. Sometimes there is confusion between the definition of employees and independent contractors. An **employee** is defined as anyone who performs services for another person or organization under the direction and control of the person or organization. An **independent contractor** is an individual or business that performs labor or services for remuneration, provided the standards of ORS 670.600(1) through 670.600(8) are met.

The following comparison chart will help conservation districts differentiate between who is a district employee and who is an independent contractor:

ITEM	EMPLOYEE	CONTRACTOR
Supervision	Provided by the district, or as delegated by the district.	Free from the direction and control of the district.
Work Schedule	Established by the district, such as 8 a.m. to 5 p.m., Monday through Friday.	Sets own work schedule that may or may not be subject to approval by the district.
Office Space	Provided by the district, Natural Resources Conservation Service (NRCS), or by other agreements by the district and/or NRCS.	Works out of own office or other space leased by the contractor.

ITEM	EMPLOYEE	CONTRACTOR
Tools & Equipment	Provided by the district, NRCS, or through arrangements with the district or NRCS.	Uses own equipment and tools or provides for the use of non-owned equipment other than that owned by the district or NRCS.
Vehicle	Provided by the district, NRCS, or through arrangements by the district or NRCS. Protected by district or NRCS-provided vehicle insurance.	Uses own or leased vehicle, using private operator's permit or license. Has own vehicle insurance.
Supplies	Provided by the district, NRCS, or through arrangements by the district or NRCS.	Provides own supplies. If purchased as a result of the contract with the district, still considered as being purchased by the contractor.
Telephone	Provided by the district or NRCS, for local and long distance calling for business purposes.	Provides own telephone service.
Business Cards	Uses district card or does not have a card, and refers clients to the district or NRCS address and telephone.	Has own business cards, showing bearer as a company, corporation, consultant, or advisor.
Clients	District and its customers and partners are the primary clients.	Normally performs labor or services for two or more different persons within a one-year period.
Hire/Fire	The district board has the authority to hire or fire.	The individual or business has the authority to hire or fire employees working on the project.

ITEM	EMPLOYEE	CONTRACTOR
Payment	Made to the employee by the district on an hourly, daily, weekly, or monthly basis.	Made to the contractor by the district at the completion of specific portions of the job or by retainer.
Guarantee	The district guarantees the work, not the employee.	The contractor assumes financial responsibility for all defective work or services not provided.
Representation	Represents self as employee of the district.	Holds self out to the public as an independently established business.
Taxes	Pays half of FICA taxes.	Pays FICA in its entirety.
Quarterly Reports	District files federal and state quarterly tax reports.	Responsible for filing own federal and state quarterly tax reports.

Another test of whether a person can qualify to be an Independent Contractor is to see if he or she meets the requirements in Section B of the CERTIFICATION STATEMENT FOR CORPORATION OR INDEPENDENT CONTRACTOR on page 73 of the 1999 edition of the CONTRACTING HANDBOOK for Soil and Water Conservation Districts.

D. Hiring Practices

The most important decision a district can make is selecting and hiring employees.

There are many different issues relating to personnel issues. This Guidebook outlines important points relating to hiring practices. The Soil and Water Conservation District Personnel Handbook, available from the Natural Resources Division, details these points.

1. Hiring and Firing Employees
 - a. Hiring public employees can be a complicated process, and the following issues must be considered:
 - Discrimination issues

- Interviews and testing
 - Delegation to administrators
 - Compliance with open meetings law and district policies
 - "Employment-at-will" status
- b. "Employment-at-will" means that employees may terminate and be terminated with or without cause. Oregon employees are presumed to be "at-will" employees unless that status has been changed by contract provisions, personnel policies, statutes, or oral promises which convert the employee's job into a "property right".
- If "at-will" status is altered, the employee may be terminated only for good cause and must be afforded "due process".
 - Where due process is required, employees are entitled to notice of charges, a pre-termination hearing, and a post-termination hearing.
 - Districts should assume that the "at-will" employment status is preserved.
- c. Employment contracts: Written employment contracts, particularly for top administrators or managers, can be very useful in prescribing duties and benefits, as well as in simplifying the termination process.
- d. Wrongful discharge: Wrongful discharge is a common claim made by fired employees. Such claims are made whenever an employee believes he or she was fired for a reason which is discriminatory or otherwise in violation of law. Some of the laws restricting employee terminations are:
- Federal Laws
 - National Labor Relations Act
 - Civil Rights Act of 1964 Title VII
 - Pregnancy Discrimination Act
 - Age Discrimination in Employment Act
 - Vocational Rehabilitation Act of 1963
 - Veterans Reemployment Rights
 - Vietnam Era Veterans Readjustment Assistance Act of 1974
 - Title VI of the Civil Rights Act of 1964
 - Executive Order 11246
 - Civil Rights Act of 1871
 - Civil Right Act of 1866
 - Fair Labor Standards Act
 - Occupational Safety and Health Act
 - Employee Retirement Income Security Act

- Immigration Reform and Control Act
 - Consumer Credit Protection Act
 - Bankruptcy Act
 - Employee Polygraph Protection Act of 1988
 - Protection of Juror's Employment Act
- State Laws
 - Labor Relations
 - Oregon Civil Rights Law
 - Lie Detector Tests
 - Black Listing
 - Family Relationships
 - Workers' Compensation
 - Handicap
 - Safety and Health
 - Jury Service
 - Parental Leave
 - Garnishments
 - Wage Claims
 - Sex based wage claim
 - Miscellaneous
- e. Contract issues: An employee who has an employment contract, either written or implied, may claim wrongful discharge if the firing did not comply with the terms of the contract. Such claims may be based on:
- Oral statements
 - Handbooks and policy manuals
 - Other contract theories (court-implied)
- f. Public policy issues: There are also several other reasons for termination which courts will find unlawful because they are inconsistent with good public policy:
- Fulfilling a societal obligation
 - Jury Duty
 - Reporting safety violations
 - Pursuing a private right
 - Worker's compensation claim
 - Resisting sexual harassment
- g. Other claims available to a fired employee: In addition to wrongful discharge, terminated employees often make the following claims as well:

- Intentional infliction of emotional distress
 - Defamation
 - Interference with contract
- h. Avoiding wrongful discharge claims: The following techniques should be followed by all districts to avoid or reduce liability:
- Establish “employment at-will” status
 - Terminate only for good cause
 - Avoid oral or written assurances
 - Train managers (whether board members or employees)
 - Apply policies consistently
 - Disclaimers
 - Avoid public policy claims
 - Discipline and discharge procedures
 - Documentation: keep good records
 - Retention of documents
 - Personnel records, evaluations, disciplinary records
 - Payroll records
 - Immigration records
 - Pension and welfare plan information
 - Job injuries causing time loss
 - Memoranda
 - What goes in the personnel file
 - Right to inspect: Terminated employees have the right to inspect and obtain copies
 - Safety valves
 - Suspensions
 - Automatic review
 - Appeal procedures
 - Releases
 - Exit interviews
- i. Remedies for the wrongfully terminated employee.
- Back pay
 - Front pay
 - Reinstatement
 - Punitive damages
 - Attorney fees

E. Recruitment and Job Descriptions

Before hiring, the district should identify its needs for an employee (i.e., what work needs to be done that is not being done). To do this, districts must:

1. Analyze the tasks that need to be accomplished
2. Write a position description, listing in concise statements what the employee would do.
3. Determine pay range for the position
4. Determine source(s) of funding for the position

The most important part of hiring an employee is to know what the district expects and to communicate those job expectations with a well-formulated position description. The position description is a guide the district and its employees can use throughout the term of employment to measure results and communicate expectations. Position descriptions should be reviewed on a regular basis and updated when duties and responsibilities change.

The following are suggested steps for managing district recruitment and hiring process.

1. Recruitment and Hiring Process

Step One: Determine the District's needs and the purpose of the position

1. Determine the district's personnel needs.
 - a. What work needs to be done that isn't currently being done?
 - b. What are the desired outcomes or deliverables to be produced?
 - c. Is the work to be done an on-going need or a limited-duration need?
 - d. How will the work relate to what is identified in the annual work plan or in the long-range business plan?
2. Does this work require hiring an individual, using volunteers, or the services of independent contractor?
 - a. Is hiring an employee the best option to complete this work?
 - b. Will this be a full-time or part-time position?
3. What sources of funds are available to fund the position?
 - a. Are they secured?
 - b. For how long?
4. What knowledge, skills, and abilities are required for a person to do the job?
 - a. Does this job require certain certification or credentials?
 - b. What minimum education and experience levels are required?
 - c. Are there desired skills, qualifications, and experience above the minimums that will be used in ranking applicants?

- d. Possession or be able to possess valid Oregon driver's license and/or appropriate endorsements?
- 5. How will this position be classified?
 - a. Exempt or non-exempt?
 - b. Salaried or hourly?
- 6. What compensation and benefits will be available with the position?
 - a. Salary range.
 - b. Insurance coverage.
 - c. Retirement Plan.
 - d. Available leave.
 - e. Holidays.
- 7. What is the supervisory structure?
 - a. Supervised by whom?
 - b. Who do they supervise?
- 8. What are the working conditions for this position?
 - a. Indoor work.
 - b. Outdoor work.
 - c. Physical requirements necessary to do the duties of the position (i.e., must be able to lift 50 lbs., must be able to hike over long distances, be able to climb ladders, etc.).
 - d. Travel requirements (overnight travel, etc.).
- 9. Testing requirements?
 - a. Proficiency tests.
 - b. Knowledge and skill tests.
- 10. When is the anticipated start date?
- 11. What equipment, accommodations, and office space are needed?
 - a. Computer.
 - b. Telephone.
 - c. Vehicle use (i.e., district, NRCS, personal use?)
 - d. Determine if a cooperative agreement with NRCS or other partners allow for accommodating new staff with space and equipment. If not, discuss revising agreements with partners.
- 12. What are the reporting requirements?
 - a. Monthly reports at board meetings.
 - b. Reports required by grants.

13. Are there other requirements?
 - a. Ability to work as part of a team.
 - b. Good communication skills.
 - c. Interpersonal relationship skills.
 - d. Ability to work independently.
14. What training and assistance is the district willing to provide relevant to the position?
 - a. Orientation.
 - b. Specific training to fill gaps in skill and ability.
 - c. Has the district budgeted for training expenses?
15. Will there be any trial service period?
 - a. Length of trial service?
 - b. Do benefits begin after trial service ends?
 - c. What are any other specific conditions of that trial service?
16. Any other important facts to the position.

Step Two: Develop Position Description.

Typical elements in a Position Description are:

- Primary purpose of the job
- Essential functions
- Secondary functions
- Job scope
- Minimum qualifications and requirements (experience, credentials)
- Working conditions
- Supervision
- Work schedule
- Employee status (professional, exempt, etc.)

Step Three: Develop Position Announcement.

Step Four: Obtain or develop an application form and questions to be included in application.

- Will resumes be required or allowed with the application?
- How will applications be accepted (i.e., by fax, email, hand-delivered, regular mail, etc.) ?
- Determine who will collect and process the applications.
- How long will recruitment be open?

Step Five: Outline a recruitment plan, which includes the following:

Never recruit and offer a position to someone if the district doesn't have the money to pay the salary and associated costs!

- Establish an interview panel or interview committee.
- Advertise position. It is recommended that advertisements and job announcements be posted with:
 - State employment office
 - Local/regional newspapers
 - Local community college or universities
 - Available websites (OACD, SDAO, districts, etc.)
 - Notice on email lists
- Develop a set of interview questions to be asked of all candidates.
- Develop test questions or activities, if applicable.
- Set up a system for receiving and logging applications.
- Establish application period and deadline for receipt.
- Determine where interviews will be held.
- Develop "scoring sheet" for all interview questions to be completed by interviewers.

Step Six: Review applications and conduct interviews.

- Review applications for minimum requirements and suitability for the position.
- Select candidates for interviews.
- Conduct interviews.
- Check references.
- Interview team makes a recommendation to the board for a selection of a candidate.

NOTE: Be cautious of an apparent or real "conflict of interest" that might exist between interview panel members and candidates because of family or business relationships.

Step Seven: Select top candidate.

- Board or its designee is granted authority to make an offer.
- Use the "Recruitment Information" to develop a written job offer. Negotiate, if necessary.
- It is highly recommended that the written job offer outline the specific terms and conditions of employment, and that the candidate signs the written job offer to acknowledge agreement with the terms.
- Upon receipt of a signed acceptance of offer, notify the other applicants that the position has been filled and thank them for their interest.

2. Post-Hiring

The following are suggested steps for managing district post-hiring process and procedures.

Step One: Meet with employee on first day to fill out forms.

- Department of Justice New Hire Reporting Form.
- W-4.
- I-9.
- Complete data and emergency contact cards.
- Other forms as required or needed.

Step Two: Provide orientation.

It is recommended that districts develop orientation checklists to ensure that nothing is overlooked

- Issue Keys.
- Issue I.D. cards.
- Provide business cards.
- Introduction to staff.
- Tour facilities.
- Provide a copy and allow time for review of personnel policies.
- Review specific items of personnel policies essential to daily work, i.e., work week, breaks, time keeping, personal use of district equipment, etc.
- Review job description, work plan requirements, and expectations.
- Provide copies of documents essential to understanding the district and the employee's job (i.e., annual report, annual work plan, long-range business plan, grant expectations, etc.)
- Procedures and schedules for employee evaluations.
- Create log-ins and issue passwords for computer use.
- Review safety procedures and security measures.

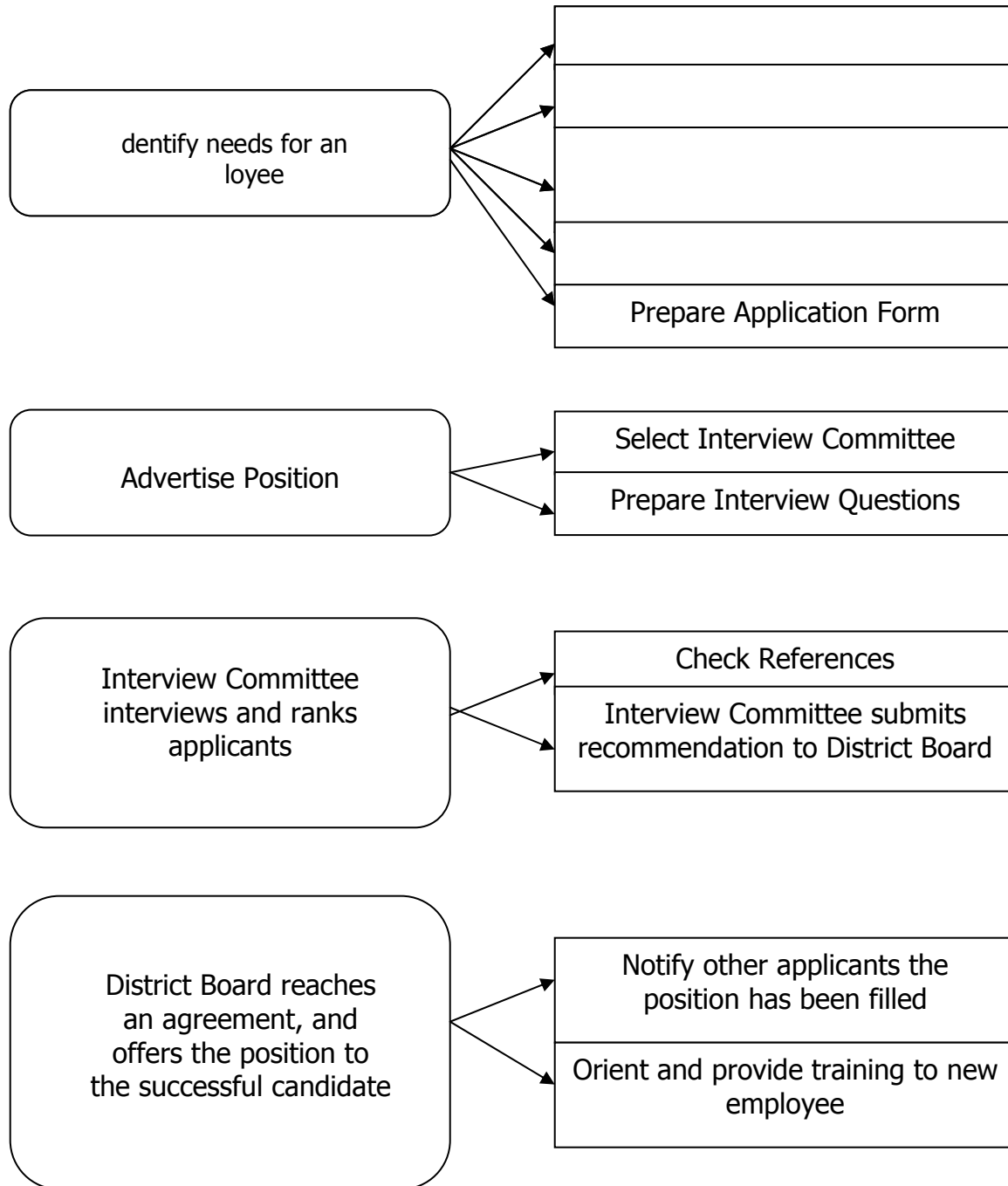
Step Three: Review

Review the position description, work plan, and expectations to develop an Employee Work Plan and identify additional training that may be needed to increase the employee's skills to a desirable level.

If a new employee chooses to change jobs, and leaves the employment of the district within six months after the original recruitment took place, the conservation district may offer the position to the next most qualified person, from among the group it interviewed earlier, without advertising and going through the recruitment process again.

A conservation district may also hire someone, for a short duration, as a **temporary** employee. It is not required that the district advertise and recruit to fill a temporary position. Utilization of a temporary position allows a district to get someone on staff quickly to do a job that is of short duration. Short duration means a period of six months or less.

EMPLOYMENT PROCESS



F. Supervision of Employees

The conservation district board is an **Employer of Record** if the district has one or more employees. As the Employer of Record the district board is responsible for administrative oversight of its employee(s). A district with more than one employee may assign one of the employees the responsibility of daily administrative oversight of the other employees, but ultimately the district board is responsible. Although most districts share an office with Natural Resources Conservation Service field staff, they cannot legally delegate their Employer of Record responsibilities to a Natural Resources Conservation Service staff member. However, the district may enter into an agreement with NRCS to oversee the performance of the position's *technical* work.

G. Employee Classification and Compensation

The use of compensatory time (time off in lieu of monetary overtime compensation), more commonly referred to as "comp time", is only available to government employers. Employers in the private sector or non-profit agencies that are not part of a federal, state, or local government agency are not permitted to use compensatory time in place of the payment of overtime. It is important for district boards to understand and follow the rules regarding employee compensation.

There are specific requirements under state and federal law to compensate non-exempt employees for hours worked over a 40-hour work week at one and one-half (1.5) times their regular rate for extra hours worked. Districts should refer to the Wage and Hour Laws publication available from BOLI for these requirements.

A couple of key issues a district needs to understand and research before creating district policies include:

- Employee classification: Is the employee
 - Full-time (works a minimum of 40 hours a week on a continuing basis)
 - Part-time (works less than 40 hours a week on a regular basis)
 - Temporary (holding a job of limited duration arising out of special projects, abnormal work load, emergencies, or limited funding)
- Exempt: OAR 839-001-0130(1) states that the exempt status of an employee is determined by the *type of work the individual performs and*

NOTE: Because of the complexity of determining the exempt or non-exempt status of positions, district boards should work with BOLI to ensure that each job position is in the right classification for the actual work performed.

the location of the work performed in one day. Exempt employees may include:

- Executives, managers or supervisors - ORS 653.020(3) and OAR 839-020-0005
- Administrative employees – ORS 653.020(3) and OAR 839-020-0005
- Professional Employees
- Non-exempt: Is the position eligible for overtime and/or compensatory time?

According to BOLI, paying on a "salary basis" does not automatically make an employee exempt. Paying a salary does not relieve the overtime obligation. In addition, salaried, non-exempt employees may be "docked" for actual amounts of time not worked.

OAR 839-020-0040

Hours Worked -- Generally

- (2) Work requested or required is considered work time. Work not requested, but suffered or permitted is considered work time.
- (3) Work performed for the employer but away from the employer's premises or job site is considered work time. If the employer knows or has reason to believe that work is being performed, the time spent must be counted as hours worked.
- (4) It is the duty of the employer to exercise control and see that the work is not performed if it does not want the work to be performed. The mere promulgation of a policy against such work is not enough.

In brief, it is the boards decision and responsibility to define the number of hours both exempt and non-exempt employees may work. Districts may limit the workweek of a full time employee to forty (40) hours, thus avoiding financial liability for overtime pay. Time limitations must be defined clearly in the employee's position description, work plan, and the district's policy and procedures.

CAUTION: OAR 839-020-0030(2)(a) states: (2)

Definitions:

(a) "Work week" means any seven (7) consecutive twenty-four (24) hour period as determined by the employer. *The beginning of the workweek may be changed if the change is intended to be permanent and is not designed to evade the overtime requirements of this rule.*

If the district authorizes overtime hours for an employee, the district may choose to offer compensatory time or overtime wages at a rate of one and one-half

(1.5) times the employee's regular rate of pay. The issue of compensatory time and overtime pay should be clearly defined in the district's policy and procedures **prior to** the time the district authorizes overtime.

The reason for establishing policies is to make sure that both the district board and employees understand what is being provided for by the district and what employees are legally entitled to under the state wage and hour law.

1. *Can the district request an employee to work extra hours?*

It is not illegal to request that an employee work overtime, as long as the employee is appropriately compensated. District policies should be established that outline overtime hours and appropriate compensation.

2. *If the district board needs the employee to attend a late meeting on a Tuesday night from 6:00 – 10:00, must the district pay the employee for four hours of overtime?*

No. The district may require the employee to limit their hours to 40 hours for the week, and require the employee to adjust the work schedule to a maximum of 40 hours a week. For instance, if the employee attends a night meeting on Tuesday, they may be required to end their work week at 1:00 p.m. on Friday. The district, however, cannot change the beginning of the workweek.

3. *Does a district have to pay overtime if an employee works over eight hours a day?*

No. ORS 279.340 requires a forty-hour workweek for non-exempt employees before overtime must be compensated.

4. *If the district offers compensatory time when extra hours are worked, can the district limit the amount of accrued compensatory time?*

Yes. Federal law places a maximum number of accrued comp time to be 240 hours (or a total of 160 actual hours worked). Each agency may establish its own policy setting a lower limit on the number of hours an employee may accrue. Districts should be aware that any extra hours worked over the cap of the accrued comp time must be paid to the employee.

5. *If the district offers compensatory time when extra hours are worked, can the district limit how long accrued compensatory time can be carried?*

Yes. Employees must be permitted to use comp time within a “reasonable period”. The district’s policies may reflect that comp time can be carried for a specific amount of time (i.e., six months), before the employee loses the option of using comp time, and the accrued time is cashed out to the employee.

6. *If the district offers compensatory time when extra hours are worked, when can an employee use comp time?*

The employee’s direct supervisor or employer authorizes use of comp time. To avoid confusion, the use of comp time should be well defined in district policy. In the absence of district policy, it is standard practice for the use of comp time to be authorized by the employee’s supervisor.

7. *What happens if an employee leaves the district with accrued comp time unused?*

An employee may “cash out” any accrued comp time at any time. In addition, at termination, an employer must pay any accrued comp time to the employee. Both of these options are to be paid at the regular rate earned by the employee *at the time the employee receives payment*, not at the rate at which the comp time was accrued (if the amounts differ).

H. Personnel Policy Guidelines

Every district that has an employee, or is thinking about hiring an employee, should develop personnel policy guidelines by which the board and the employee(s) can operate and measure performance. There are many different formats for personnel policy guidelines. The following page lists some of the topics that might be included in such a document.

Personnel policies and procedures

- Purpose of the policies
- Personnel administration

Appointments, qualifications and separations

- Job announcements
- Applications
- Eligibility
- Interview and Selection
- Orientation
- Employee Status
- Driving record
- Layoffs
- Voluntary resignations
- Personnel record

Payroll, scheduling and overtime

- Work week and working hours
- Wage Compensation
- Overtime
- Rest periods
- Meal periods
- Payday
- Payroll deductions
- Time records
- Pay upon separation

Employee travel authorization and reimbursement

- Mileage, per diem, meals and other travel rates
- Documentation requirements
- Approval procedures
- Travel settlement

Time off policy for employees

- Holidays
- Primary occupational leave: unpaid
- Other leave

Safety and accidents

- Safety policy statement
- Unsafe conditions
- Accident reporting
- Employee injury report
- Workers' Compensation Insurance
- Return-to-work policy
- Violence in the work place

What the district expects from employees

- Teamwork and excellence
- Personal conduct
- Code of ethics for district employees
- Political activities of district employees
- Cost consciousness
- Attendance and punctuality
- Personal appearance
- Appearance in work areas
- Personal telephone calls
- Smoking in the work place
- Drug and alcohol use

Non-discrimination and harassment

- Equal Employment Opportunity
- Harassment prevention
- Civil rights

Performance Evaluation

- Employee performance reviews
- The evaluation process
- Evaluation form

Problem-solving process

- District policy
- Steps to solution

Discipline

- General guidelines
- Discharge procedure

This is a rather extensive list of items that might be included in a district personnel policy document, but, if the district develops its policies "up front", and everyone understands what they are, the district and the employee(s) will have a greater awareness of the board-employee relationship, and everyone will be better able to work as a team.

I. Employee Benefits

Employee benefits include forms of compensation such as vacation pay, holiday pay, bonuses or sick leave. According to the BOLI Wage & Hour Laws, there is no legal requirement to offer these benefits, but once promised they cannot be arbitrarily withheld.

District boards that decide to offer benefits should develop policies on how sick leave, vacation time, and other benefits are accrued and the procedure for how the employee requests leave time. This information should be provided to employees and new hires as part of their orientation.

J. Trial Service

“Trial service period” is part of the selection process used to confirm the initial employment decision and to release those whose performance is not satisfactory. During this evaluation period, the employee and the district will have an opportunity to determine whether further employment with the district is appropriate. Trial service customarily lasts from 30 – 180 days, depending on the job position.

During trial service, the employment relationship can be terminated by the employee or the district at any time for any reason. Districts should establish policies outlining what, if any benefits an employee is eligible after the trial service (i.e., a raise, accrual and/or use of vacation time, insurance, and other benefits not available to non-regular employees).

K. Employee Performance Appraisal

As the Employer of Record, it is very important for the conservation district board to provide input to its district employee on how well he or she is meeting the work expectations of the board. Although considerable communication and feedback may occur on a regular basis, it is helpful to a district employee to have an overall evaluation of his/her performance by the entire board, and for a clarification of expectations. The district board should provide an opportunity for a performance appraisal once or twice a year to:

- share with the employee the board's perception of performance, and
- receive input from the employee on how well the board is providing direction for the employee.

If there are weaknesses in the communication process, in either direction, the performance evaluation interview is a good time to identify them. Employee performance evaluations should be in writing as well as done orally.

The board can reasonably expect the following from staff:

- Courteous responses to the public and to district cooperators and partners
- Prompt and courteous response/return of telephone calls
- Attention to details of meetings
- Complete, concise, and accurate information
- Honesty in individual and organizational relationships
- Judicious use of time
- Meeting agreed-upon deadlines, with notification if deadlines cannot be met
- Prompt response to requests for information
- A safe and harassment-free work place

The staff can reasonably expect the following from the board:

- Fulfillment of commitments within the agreed-upon deadlines
- Organization knowledge and ability
- Candid performance appraisal and assistance in performance
- Job description
- Clearly defined expectations of staff responsibilities
- Clearly defined chain of command, (from whom work assignments are to be taken)
- Support in controversial situations
- Easy access by telephone or visitation
- Loyalty, confidentiality, and sensitivity
- Incentives and rewards to promote and recognize accomplishments
- Opportunities for training

Adapted from Conrad and Glenn, pp. 116-119, and Ty Clark

X. Developing and Maintaining Partner Relationships

Districts can do a better job fulfilling their mission when they partner with a variety of different groups, such as county governments, watershed councils, and state and federal agencies. There are different methods to formalize these relationships. This chapter covers some of the common partners that districts are likely to work with and talks about some of the agreements the district needs to maintain and cultivate these relationships.

A. Oregon Department of Agriculture Natural Resources Division

1. Governing Legislation

ORS 561.400

2. Purpose and Function

The Natural Resources Division has various responsibilities in the management of natural resource programs in the state of Oregon. Among these are the responsibility to provide administrative oversight of the soil and water conservation districts. According to ORS 561.400:

ORS 561.400 Natural Resources Division; duties; insurance for soil and water conservation districts.

- (1) There is established within the State Department of Agriculture a Natural Resources Division which shall have the duties and powers conferred by subsection (2) of this section, by ORS 568.210 to 568.808 and 568.900 to 568.933 and by the Director of Agriculture. The administrator of the division shall be appointed by the director under ORS 561.050 after consultation with the Soil and Water Conservation Commission.
- (2) In addition to other duties and powers, the division is authorized:
 - (a) To review and approve or disapprove all projects, practices, budgets, contracts or regulations of soil and water conservation districts organized under ORS 568.300 to 568.790;
 - (b) To keep the directors of the soil and water conservation districts informed of the activities and experiences of other districts, to assist in the interchange of advice and information among the districts, and to promote cooperation among the districts;
 - (c) To coordinate, as much as possible, the various programs of the soil and water conservation districts;

- (d) To solicit the cooperation and assistance of any department or agency of the United States or other department or agency of this state;
 - (e) To disseminate information concerning the activities and programs of soil and water conservation districts and encourage formation of such districts in areas where they would be desirable and feasible;
 - (f) To receive, from any source, materials, machinery and equipment and to transfer such to any soil and water conservation district under terms and conditions deemed appropriate, including payment by the district for costs of delivery or use;
 - (g) To receive from any public or private source, donations, gifts and grants for the furtherance of soil and water conservation, the provisions of ORS 568.225 or the protection of natural resources affecting agriculture, which moneys are continuously appropriated to the department for the administration of the Natural Resources Division and functions related thereto and for furnishing support and financial assistance for the projects and activities of soil and water conservation districts or other projects and activities relating to natural resources affecting agriculture or consistent with ORS 568.225;
 - (h) To establish the procedures for developing and implementing extended stream bank erosion plans under ORS 561.403;
 - (i) To review and evaluate documents and proposals of the federal government, agencies of the State of Oregon, counties, cities, other governmental bodies or subdivisions thereof relating to natural resources affecting agriculture or consistent with ORS 568.225; and
 - (j) To assist in the development of agricultural management procedures and practices relating to natural resources for the prevention of soil erosion and water contamination or enhancement of water quality and quantity.
- (3) The administrator of the division shall coordinate any activities of the Natural Resources Division related to a watershed enhancement project approved by the Oregon Watershed Enhancement Board under ORS 541.375 with activities of other cooperating state and federal agencies participating in the project.
- (4) In addition to or in lieu of the coverage provided pursuant to ORS 30.282 (3), the Oregon Department of Administrative Services may provide to soil and water conservation districts and their officers, employees and agents acting within the scope of their employment or duties, protection against liability as part of the insurance provided to the State Department of Agriculture pursuant to ORS 278.120 to 278.215. The Oregon Department of Administrative Services shall determine any additional contributions to be apportioned to the State Department of Agriculture under ORS 278.110

for extending insurance to soil and water conservation districts, and the State Department of Agriculture shall pay the assessments from such moneys as may be available therefor.

These are the primary responsibilities of the Natural Resources Division. There are other responsibilities:

- Coordinate board member elections
- Administer grants
- Technical Assistance
- Administrate Local Management Agency
- Review annual work plans and long-range business plans
- Receive and file district minutes
- Receive annual reports and financial reports

The primary responsibilities of the division is to assist districts with answering questions, provide training, solicit legal advise from the attorney general's office, provide tort coverage through the Department of Administrative Services, co-sponsor grants, develop training materials, fact sheets, and other resources.

In addition, the above responsibilities relating specifically to districts, the division is responsible for:

- Confined animal feeding operations
- Field burning/smoke management programs,
- Administering the following programs
 - Nonpoint source pollution control from agricultural lands
 - Implementation of the Oregon Plan for Salmon and Watershed through Senate Bill 1010
 - Water Quantity issues related to agriculture
 - Protection of groundwater in agricultural areas
 - Well-head protection in selected areas
 - Land leases for commercial oyster production on state estuary lands
 - Weather modification permit requests
 - Implementation of Oregon's rare plant conservation biology program
 - Land use issues related to use of prime farm land for development

3. **Contact Information**
Oregon Department of Agriculture
Natural Resources Division
635 Capitol Street, NE
Salem, OR 97301
Phone: (503) 986-4775
Fax: (503) 986-4730
<http://www.oda.state.or.us>

B. Soil and Water Conservation Commission

1. Governing Legislation

In 1981 the Oregon Legislature established the Soil and Water Conservation Commission, under ORS 561.395, to provide for coordination between Oregon's Soil and Water Conservation Districts and the Department. Prior to 1981 the Commission was an independent agency with agency policy-making authority. When the Commission was incorporated into the Department of Agriculture its policy-making authority was changed to authority to recommend policy to the director of the department.

2. Purpose and Function

The function of the Commission is to advise and develop policy with the department in the administration of its duties.

To assist with this advisory role the Chair of the Commission, by statute, is also a member of the State Board of Agriculture.

The Commission also has a major role in overseeing the grant programs to districts including the technical assistance and administrative assistance funds.

The Commission provides assistance and direction to Oregon's 45 conservation districts and coordinates with the department, the division, Natural Resources Conservation Service, Farm Service Agency, Oregon State University, Oregon Association of Conservation Districts, and Oregon Watershed Enhancement Board.

3. Membership

The Commission consists of seven members appointed by the Director of the Department of Agriculture. Each member must be a citizen of the state of Oregon and a director of a conservation district board at the time of appointment. Commission members serve staggered four-year terms. Commission members each represent different regions of the state and often times a specific natural resource expertise. Commission members are not salaried and serve as volunteers. In addition to per diem, they receive

reimbursement for actual and necessary travel expenses as a result of the performance of their official duties.

The Commission has non-voting advisory members, who represent various state and federal agencies, and other organizations. Current advisors represent the Natural Resources Conservation Service, National Association of Conservation Districts, Farm Service Agency, OSU Extension Service, Oregon Association of Conservation Districts, Oregon Department of Forestry, and the Oregon Watershed Enhancement Board.

Staff support for the Commission is provided by the Natural Resources Division. A list of the commission members, their areas of assignment, and the commission advisors is provided in the Soil and Water Conservation Directory.

4. Contact Information

Soil and Water Conservation Commission
c/o Natural Resources Division
635 Capitol Street, NE
Salem, OR 97301
Phone: (503) 986-4775
Fax: (503) 986-4730

C. Oregon Association of Conservation Districts

1. Formation

The Oregon Association of Conservation Districts was established as an association on December 29, 1948. It was incorporated as a nonprofit corporation under the laws of Oregon on January 29, 1976.



2. Membership

All conservation district and water control districts are eligible to become members of the association. A member district is one that has paid, in full, the regularly assessed dues of the association for the current calendar year. Individuals or businesses that pay the assigned dues become Associate Members. Associate members do not vote on OACD matters. However they receive information, minutes, and other updates from OACD. Associate members are welcome to attend OACD business meetings and the OACD Annual Meeting and Convention.

3. Structure

Oversight of OACD is through elected officers and basin chairs. Only conservation district directors can hold board positions. Officer positions include: President,

first vice president, second vice president, immediate past president, and secretary-treasurer. OACD has identified eight major basins in the state which are represented by a director who is elected to be the basin chair. The eight basins include:

North Coast Basin	Lower Willamette Basin
Upper Willamette Basin	Southwest Oregon Basin
Deschutes-Hood Basin	High Desert Basin
John Day-Umatilla Basin	Snake River Basin

The board establishes standing committees and ad hoc committees as needed.

The OACD board meets quarterly and holds an annual meeting and convention in November. All meetings are open to the public. All programs and services of OACD are offered on a non-discriminatory basis.

4. Purpose and Function

OACD's constitution and bylaws define its purposes and operational procedures. It also has a mission and vision statement, and a set of guiding principals.

The purposes of OACD are:

- (1) To promote the conservation and wise use of the natural resources of the state of Oregon, by serving as the state association of member soil and water conservation districts and water control districts.
- (2) To speak for those who are committed to the belief Oregon's soil, water, air, and renewable resources must be used in accordance with the needs of the people of the state, while maintaining a quality environment and a productive economy.
- (3) To cooperate with public and private organizations with similar purposes toward the adoption of statewide policies and programs which will effectively contribute a quality environment and a productive economy.
- (4) To inform the public of the value of soil and water conservation, flood prevention, proper land use planning, orderly economic development, recreation development, fish and wildlife enhancement, and other benefits.

5. Policies

Policies are established by resolution or by board vote. Resolutions are voted on by the membership at a business meeting during OACD's annual convention in November. Each member district is entitled to one vote by an elected or officially-appointed director at any legally-called meeting of OACD.

6. OACD Foundation

OACD established a 501(c)(3) tax exempt, nonprofit organization in 1987 called the "OACD Foundation". The OACD Foundation's purpose is to establish, promote, maintain, and conduct informational, educational, and research purposes within the state of Oregon. It also receives and provides grant funds

for special projects relating to soil and water conservation. A board of trustees governs the OACD Foundation.

7. Contact Information

Oregon Association of Conservation Districts
2200 W 2nd
McMinnville, OR 97128
Phone: (503) 472-6403
Fax: (503) 472-2459
<http://www.oacd.org>

D. Oregon Conservation Employees Association Network

The Oregon Conservation Employees Association Network (OCEAN) is a voluntary organization affiliated with the Oregon Association of Conservation Districts. All conservation district and watershed council personnel are eligible for OCEAN membership. All dues-paying members are eligible to vote on OCEAN business.

OCEAN is managed by a 10-member board of directors. One director is elected from each of the eight OACD basins in addition to two at-large director positions. Directors serve for two years with a maximum of two consecutive terms.

OCEAN represents employee interests to OACD and NACD, sponsors employee trainings and workshops, and holds

Contact Information

Janet Greenup, President
Morrow Soil and Water Conservation District
PO Box 127
Heppner, OR 97836
Phone: (541) 934-5452
Fax: (541) 676-9624

E. National Association of Conservation Districts

1. Formation

The National Association of Conservation Districts (NACD) was formed in 1946 by districts and their state associations. It is the



national voice for the nearly 3,000 conservation districts in the United States and its territories. On behalf of districts, NACD develops national conservation policies, influences lawmakers and builds partnerships with other agencies and organizations. NACD also provides services to its districts to help them share ideas in order to better serve their local communities. State associations, such as OACD, participate in NACD by serving on the board and various committees to help determine and set national priorities and policies.

NACD's primary committees include:

Agricultural Land Resources	District Operations
Education	Environmental and Resource Policy
Forest Resources	Grazing Lands and Public Lands Resources
Water Resources	Urban, Community and Coastal Resources

Special committees include Resolutions and Great Lakes. The Business Alliance Advisory and Soil and Water Stewardship are advisory committees.

Conservation district directors and staff may serve on a NACD committee, whether or not they serve on the OACD board.

NACD also provides training materials and information to districts regarding national legislative issues, program development, federal agency activities, district capacity, etc.

NACD has a Washington, DC office and a Service Center in Texas. Contact information is as follows:

Washington, DC Office

509 Capitol Ct., NE
Washington, DC 2002-4946
(202) 547-6223
FAX (202) 547-6450
email: washington@nacdn.net

Service Center

408 E. Main St.
P.O.Box 855
League City, TX 77574-0855
(281) 332-3402
FAX (281) 332-5259
email: servicedept@nacdn.net

In addition, NACD has a conservation "district capacity building" office in Washington State and a Conservation Technology Information Center in Indiana.

Washington State Office

NE 1610 Eastgate Ste 250
Pullman, WA 99163-5609
(509) 334-1823
FAX (509) 334-3453
email: capacity@nacdn.net

**Conservation Technology
Information Center**

1220 Potter Drive, Room 170
Purdue Research Park
West Lafayette, IN 47906-1383
317) 494-9555
FAX (317) 494-5969

F. Natural Resources Conservation Service

The Natural Resources Conservation Service (NRCS) is the primary federal agency that works hand-in-hand with the American people to conserve natural resources on private lands, bringing 60 years of scientific and technical expertise to the partnership. NRCS predates the formation of conservation districts in Oregon. Its predecessors were the Soil Erosion Service (1933) and the Soil Conservation Service (1935). The name of the Soil Conservation Service was changed to the Natural Resources Conservation Service in 1994 to more accurately reflect the service provided on all resource issues, not just soils. The first Soil and Water Conservation District in Oregon was established in 1940. NRCS has been a very significant partner with Oregon conservation districts since that time. The principles that guided the service's heritage still guide its work today:

- (1) Assess the resources on the land, the conservation problems and opportunities.
- (2) Draw on various sciences and disciplines and integrate all their contributions into a plan for the whole property.
- (3) Work closely with land users so the plans for conservation mesh with their objectives.
- (4) Contribute to the overall quality of the life in the watershed or region through implementing conservation on individual properties.



Soil and water conservation districts are crucial partners with NRCS as it applies these

principles to implement its programs. Historically, NRCS has provided technical expertise for districts, and districts have provided local staffpower and community leadership to identify area resource concerns to implement conservation on the ground. Today both partners team with other entities to promote locally-led conservation.

Some natural resource programs the NRCS, along with the USDA Farm Service Agency, administers are described as follows

- (1) The *Environmental Quality Incentives Program* works primarily in locally identified priority areas where there are significant natural resource concerns.
- (2) The *Wetland Reserve Program* is a voluntary program, which allows landowners to establish conservation easements of either permanent or 30-year duration.

- (3) The *Wildlife Habitat Incentives Program* provides financial incentives to develop habitat for fish and wildlife on private lands.
- (4) The *Farmland Protection Program* provides funds to state, tribal, or local entities to help purchase developmental rights to keep productive farmland in agricultural use.
- (5) The *Small Watershed Program* works through local government sponsors and helps participants solve natural resource and related economic problems in a specific watershed.
- (6) The *Emergency Watershed Protection Program* is designed to reduce threats to life and property in the wake of a natural disaster. Conservation districts often serve as the local sponsor for this program.
- (7) The *Forest Incentive Program* supports good forest management practices on privately-owned, nonindustrial lands, and is designed to benefit the environment while meeting future demands for wood products.
- (8) The *Stewardship Incentive Program* provides technical and financial assistance to encourage nonindustrial private forest landowners to keep their lands and natural resources productive and healthy.
- (9) Technical assistance for the *Conservation Reserve Program* which reduces soil erosion, protects the nation's ability to produce fiber, reduces sedimentation in streams and lakes, improves water quality, establishes wildlife habitat, and enhances forest and wetland resources. This program encourages farmers to convert highly erodible crop acreage to vegetative cover. (This program is not used in Oregon yet—probably will be with the new Farm bill (last) Technical assistance for the *Conservation Reserve Enhancement Program* that provides a flexible and cost effective means to target state and federal resources to specific geographic regions of particular environmental sensitivity.

NRCS and the conservation districts have teamed up with the Oregon Association of Conservation Districts, Oregon Department of Agriculture, USDA Farm Service Agency, RC&D Councils, Oregon Watershed Enhancement Board, Oregon Department of Forestry and the Oregon State University Extension Service to form TEAM OREGON, a partnership for natural resource management in Oregon. The Oregon Conservation Partnership is committed to a voluntary, locally led, watershed-based approach to natural resource management.

Contact Information

Natural Resources Conservation Service
101 SW Main Street, Suite 1300
Portland, OR 97204
Phone: (503) 414-3200
Fax: (503) 414-3277
<http://www.or.nrcs.usda.gov>

G. Resource Conservation and Development

Congress authorized the first Resource Conservation and Development (RC&D) pilot project in the United States in 1963. Since that time RC&D program areas have been approved throughout most of Oregon. RC&D coordinators and councils are very important partners with conservation districts by assisting in inventorying problems, obtaining funds, and implementing natural resource projects. The RC&D gets people involved, from the private sector, corporations, counties, foundations, and all levels of government, to identify and solve human, economic, and environmental problems in their community.

RC&Ds are involved in land conservation, water management, community development, and environmental enhancement projects. Each RC&D program area has a council, whose members represent sponsoring organizations, soil and water conservation districts, towns, water control districts, and nonprofit groups. The local council determines what problems exist in the area it represents, identifies priorities, and sets goals to find solutions.

The Natural Resources Conservation Service administers the RC&D program for the United States Department of Agriculture. RC&D areas are multi-county in scope and most are nonprofit corporations. The RC&D Councils are not a Federal agency, but rather a group of local concerned citizens who represent farmers, businesses, and units of government to coordinate economic development projects, primarily in rural areas.

H. Farm Service Agency

The Farm Service Agency (FSA) was formed in 1933 as the USDA Agricultural Adjustment Administration. Over the years the name has changed, as well as the number and type of programs administered by the agency, and ultimately became the Farm Service Agency. The FSA is a significant partner with soil and water conservation districts by providing considerable financial and other assistance to the agricultural producers serviced by the districts.

According to USDA publication, PA-1551, the FSA currently administers farm commodity, crop insurance, farm credit, and conservation programs for farmers through a network of state and county offices. FSA programs are directed primarily at agricultural producers or, in the case of loans, at those with farming experience. The majority of FSA employees work with producing farmers who maintain a crop history by making an annual report of planted acres to county FSA offices.

Some of the programs administered by the FSA include:

- (1) *Commodity programs* for wheat, corn, grain sorghum, barley, oats, rye, oilseeds, rice, tobacco, peanuts, milk, cotton, sugar, and honey. FSA

- makes Commodity Credit Corporation or CCC loans to eligible farmers, using the stored crop as collateral.
- (2) *Federal crop insurance* covers production losses due to unavoidable causes, such as drought, hail, wind, and excessive rain, for insurable crops.
 - (3) Direct and guaranteed *farm ownership and operating loan* programs to help farmers who are temporarily unable to obtain private, commercial credit.
 - (4) *Financing for farm programs*, and for the purchase, storage, and disposal of commodities owned by the federal government, through the government-owned Commodity Credit Corporation.
 - (5) *Low interest loans* program, to farmers who qualify, for losses due to a natural disaster event.
 - (6) *Conservation Reserve Program*, which targets the most fragile farmland and encourages farmers to stop growing crops on “highly erodible” land.
 - (7) *Conservation Reserve Enhancement Program*, which is a partnership between federal, state, and local entities, expands the high value practices established in the Conservation Reserve Program.

Financial incentives are provided by FSA, while local conservation districts, and their state and federal agency partners provide technical assistance.

Contact Information

Farm Service Agency
7620 SW Mohawk
Tualatin, OR 97062
Phone: (503) 692-6830,
Fax: (503) 692-8139
<http://www.fsa.usda.gov>

I. Oregon State University Extension Service



The Oregon State University Extension Service is a key partner with conservation districts. The OSU Extension Service delivers objective, research-based, education to help Oregonians solve problems, develop leadership, and manage resources wisely. The OSU Extension Service is the "front door to OSU" and the premier provider of education that meets the needs of Oregonians and contributes significantly to strong individuals, families and communities, a vibrant economy, and sustainable natural resources. The OSU Extension Service has been in Oregon since 1911 and has offices and faculty in all 36 counties. OSU Extension Service's educational goals include economic development, youth and family development, natural resource conservation and management, and leadership development. Extension's program areas include agriculture and natural resources, home gardening, 4-H and youth development, family and community development, ocean and coastal resources, nutrition, diet and health, and forestry. OSU Extension Service faculty in field offices around the state work closely with the same private landowners as do the conservation districts. The field office faculty are instrumental in helping landowners apply research principles developed at the university. Districts should work with OSU Extension Service and develop a relationship at the local level and access their assistance in delivering conservation programs.

Contact Information

Extension Administration
101 Ballard Extension Hall
Oregon State University
Corvallis, OR 97331-3606
Phone: (541) 737-5535
Fax: (541) 737-4423
<http://oregonstate.edu/extension>

J. Watershed Councils

1. Definition

Watershed Council - A voluntary local organization, designated by a local government group convened by a county government body, to address the goal of sustaining natural resource and watershed protection and enhancement within a watershed [ORS 541.351(15)].

2. Enabling Legislation

ORS 541.388 Voluntary local watershed councils.

- (1) Local government groups are encouraged to form voluntary local watershed councils in accordance with the guidelines set forth in subsection (2) of this section. The Oregon Watershed Enhancement board may work cooperatively with any local watershed council that may be formed. Requests from local watershed councils for state assistance shall be evaluated on the basis of whether the requesting organization reflects the interests of the affected watershed and the potential to protect and enhance the quality of the watershed in question.
- (2) Local watershed councils formed under subsection (1) of this section shall consist of a majority of local residents, including local officials. A watershed council may be a new or existing organization as long as the council represents a balance of interested and affected persons within the watershed and assures a high level of citizen involvement in the development and implementation of a watershed action program. A local watershed council may include representatives of local government, representatives of nongovernment organizations, and private citizens, including, but not limited to:
 - (a) Representatives of local and regional boards, commissions, districts and agencies;
 - (b) Representatives of federally recognized Indian tribes;
 - (c) Public interest group representatives;
 - (d) Private landowners;
 - (e) Industry representatives;
 - (f) Members of academic, scientific, and professional communities; and
 - (g) Representatives of state and federal agencies.
- (3) If more than one watershed council exists in a county, each watershed council shall periodically report the activities of the council to the county governing body.

3. Purpose and Function

Watershed and political boundaries often don't match. Many organizations, agencies and individuals also own and manage the natural resources of a

watershed. Councils bring varied interests together in a non-regulatory setting to form a common vision for the ecological and economic sustainability and livability of their watershed. Watershed councils can work across jurisdictional boundaries and across agency mandates to look at the watershed more holistically.

Every watershed council is unique. Membership, operational procedures, and projects vary depending on the concerns, issues and people in that particular watershed. The statutory definition of a watershed council requires that they represent the “balance of interested and affected persons within the watershed.”

Council members represent local knowledge and have ties to the existing community. The council can be a forum to bring local, state, and federal land management agencies and plans together with local property owners and private land managers. Councils often identify landowner participants for projects, develop priorities for local projects, and establish goals and standards for future conditions in the watershed.

Watershed councils have typically coordinated the development of watershed assessments, action plans, and monitoring programs. Other roles for watershed councils include planning and implementing on-the-ground restoration projects and educational programs. Watershed councils may also provide coordinated, broad-based review of land management plans to local, state, and federal decision makers.

Conservation districts and watershed councils often cooperate on natural resource and watershed improvement projects, and have close working relationships. Often a district director serves on the watershed council. In some instances conservation districts serve as the fiscal agent for the local watershed council(s). Some council coordinators or other staff are employed by the conservation district or share office space. The partnership of conservation districts and watershed councils in watershed improvement efforts can provide enhanced effectiveness and efficiency and each organization has an important role to play in local watershed improvement efforts.

Similarities and Differences of Conservation Districts and Watershed Councils

CONSERVATION DISTRICTS

- Locally organized. Formed by petition to ODA and referendum vote of the public.
- Based largely on county boundaries.
- Authorized and governed by statute – ORS 568 and several others.
- Must be certified by Secretary of State.
- Board members serve voluntarily without pay.
- Directors elected on General Election ballot by voters within the district.
- Minimum age to be a member is 18, by statute.
- Director must be a registered voter and meet land ownership, management and zone requirements
- By statute, five or seven board positions (local decision).
- Political subdivisions of the state, classified as local government entities (Municipal Corporations). (Not a state agency).

WATERSHED COUNCILS

- Locally organized. Convened by and with the approval of local government.
- Based on watershed boundaries. Watershed sizes vary across the state.
- Authorized by statute – ORS 541
- Not certified by Secretary of State, unless the council decides to incorporate.
- Council members serve voluntarily without pay.
- Council members selected by various means - some may represent an organization, area of the watershed, or stakeholder group, others may represent themselves.
- Minimum age to be a council member is determined by council bylaws or charter.
- Qualifications of membership determined by council bylaws or charter.
- No set number of council positions. May have designated members, a general membership, or a steering/executive committee.
- Local entities. May be advisory boards to other entities. May become an incorporated organization. (Not a state agency).

CONSERVATION DISTRICTS

- Subject to state laws governing public entities, including public contracting, public meetings and records law, municipal audit, state and federal employment laws, workers compensation, public officials ethics law, etc.
- Provided Local Government General Comprehensive Liability Insurance by Oregon Dept. of Agriculture.
- May have employees.
- Funds administered by the district.
- Non-regulatory unless districts exercise authorities under ORS 568.630 – 568.690 (voter approval required).
- By statute, can form land use regulations, by referendum (ORS 568.630 – 568-690).
- As public entities, protected under the Oregon Tort Claims Act.
- Eligible to join the Local Government Investment Pool.
- Classified as a Special District and subject to all statutes governing Special Districts – ORS 198.
- Eligible to join the Special Districts Association of Oregon.
- Eligible to become a member of the Public Employees Retirement System.
- Many options for funding including local tax authority.

WATERSHED COUNCILS

- Not subject to state laws governing public entities.
- Provided general comprehensive liability insurance by the state [ORS 541].
- May have employees.
- Funds may be administered by the council or by another agency or organization on behalf of the council.
- Non-regulatory.
- Not authorized to form land use regulations.
- Not protected under the Oregon Tort Claims Act.
- Not eligible to join the Local Government Investment Pool.
- Not a special district.
- Not eligible to join the Special Districts Association of Oregon.
- Not eligible to become a member of the Public Employees Retirement System.
- Many options for funding except local tax authority.

CONSERVATION DISTRICTS

- By statute, may obtain a permanent tax rate or local option taxes with voter approval.
- Not eligible for IRS 501(c)(3) nonprofit status.
- By statute, must have a quorum of board positions present to conduct business.
- By statute, may enter onto private property after notification (ORS 568.730). HOWEVER, most districts have policies requiring landowner approval to enter lands.
- By statute, may access legal counsel from the Attorney General, SDAO, or other private source. Must request attorney general counsel through ODA and pay costs.
- Annual requirements of Long-range plan, Annual work plan, annual meeting, annual report and annual financial audit, required by statute. Additional annual requirements determined by grant agreements and district policies.
- Administrative oversight by the Oregon Department of Agriculture.

WATERSHED COUNCILS

- Not eligible to be a taxing body.
- May be eligible for IRS Sec. 501(c)(3) nonprofit status.
- Quorum requirements to conduct business specified in bylaws or charter.
- No authority to enter onto private property without landowner approval.
- Must make own arrangements for legal counsel and be responsible for payment of counsel.
- Annual requirements determined by grant agreements and charter.
- May report to county government, or other entity, as determined by bylaws or charter.

4. Contact Information

Oregon Watershed Enhancement Board (OWEB)
775 Summer Street, NE - Suite 360
Salem, OR 97301-1290
Phone: (503) 986-0718
Fax: (503) 986-0178
<http://www.oweb.state.or.us>

J. Oregon Watershed Enhancement Board

1. History and Formation of the Agency

1987 - Creation of GWEB (SB 23)

The Legislature created the Governor's Watershed Enhancement Board by passage of Senate Bill 23. GWEB's mission was twofold: to provide outreach and assistance to private landowners to restore watershed health locally, and to enable the state's natural resource agencies to work together across bureaucratic and geographic boundaries to achieve better watershed management. To implement this mission, from 1987 to 1995, GWEB funded landowner workshops on land use practices, developed education materials to teach watershed processes to landowners and in local schools, and provided grant funding of \$500,000 to \$1 million per biennium for watershed restoration demonstration projects.

1993–1995 - The Watershed Health Program (HB 2215)

The Oregon Legislature dedicated \$10 million to establish local watershed councils and fund watershed restoration in the Grande Ronde Basin and the South Coast of Oregon. The program was administered by the Water Resources Department with staff assigned to teams in each basin and a team in Salem. This effort was separate from the GWEB program.

1995 - Recognition of Watershed Councils (HB 3441)

The Legislature passed House Bill 3441 in 1995 that established local governments as the entity responsible for recognizing the formation of watershed councils representative of the interests in their community. Under HB 3441 GWEB became responsible for providing support to locally established watershed councils engaged in a consensus-based approach to watershed improvement.

1997 - The Oregon Plan for Salmon and Watersheds (HB 5042, 5044, and 3700)

House Bills 5042, 5044, and 3700 placed the newly created Oregon Plan for Salmon and Watersheds into statute and emphasized the role of local citizens as resource stewards responsible for watershed restoration activities on privately owned lands. The adoption of the Oregon Plan provided a significant increase in funding for locally based restoration efforts.

1998 - Passage of Ballot Measure 66

Ballot Measure 66 amended the Oregon Constitution to set aside 15 percent of lottery revenues to be spent equally on acquisition and maintenance of state parks and to support restoration of native salmonids and watersheds. The measure called for the restoration funds to be administered by a single state agency.

1999 - Creation of the Oregon Watershed Enhancement Board (HB 3225)

House Bill 3225 created the Oregon Watershed Enhancement Board (OWEB) as a new state agency to administer the watershed restoration and protection funds made available by Ballot Measure 66, and further refined the Oregon Plan for Salmon and Watersheds. OWEB was charged with continuing and expanding upon GWEB's support of voluntary local watershed restoration efforts. In addition, the Legislature gave OWEB a variety of coordination and prioritization responsibilities to steer Oregon toward more strategic investments in restoration.

2. Mission Statement

To promote and implement programs to restore, maintain, and enhance watersheds in the state of Oregon in order to protect the economic and social well-being of the state and its citizens.

3. Board Membership

The Oregon Watershed Enhancement Board consists of 17 members drawn from state natural resource agency commissions, federal agencies, and the public at large [ORS 541.360]. The Board brings together a diverse range of interests to decide on applications for grant awards. The current list of Board members can be found at www.oweb.state.or.us.

Voting members:

- Oregon Environmental Quality Commission
- Oregon Fish and Wildlife Commission
- Oregon Water Resources Commission
- Oregon Board of Forestry
- Oregon Board of Agriculture
- One tribal representative
- Five public members

Non-voting members:

- OSU Extension Service
- U.S. Forest Service (federal)
- Bureau of Land Management (federal)
- Natural Resources Conservation Service (federal)
- Environmental Protection Agency (federal)
- National Marine Fisheries Service (federal)

Public members are appointed by the Governor and confirmed by the Senate for a term of four years. A member is eligible for reappointment, but may not serve more than two consecutive terms. At least eight voting members of the board must be present to take action to award grant funds under ORS 541.370.

4. Programs

OWEB provides a number of program services to local groups interested in conducting watershed restoration activities. The following are program services provided by OWEB.

A. Grant Program

The primary responsibility of the OWEB program is to solicit, review, evaluate, award, and manage grants for watershed enhancement projects. The program manages a portfolio of more than 700 active grants.

OWEB administers a grant program funding a variety of activities, all of which fall into two general categories of grants: Grants for Capacity and Grants for Restoration Activities. The primary responsibility for grant administration is with regional staff.

Grants for Capacity	
Council Support Monitoring Watershed Assessments	Watershed Education Landowner Technical Assistance Restoration Action Planning

Grants for Restoration Activities	
Upland Erosion Control Instream Water Enhancement Riparian Area Enhancement Channel and Bank Alteration Stream Habitat Enhancement Fish Passage Improvement	Land or Water Acquisition Vegetation Management Estuarine Enhancement Wetland Enhancement Grazing Management

B. Fiscal Services and Training

The Fiscal Services Section maintains a grant database of all applications and awarded grants. Fiscal staff provide fiscal accounting for the grant program and assists regional staff with the fiscal elements of grant administration. The Fiscal Services Section also provides training for watershed councils, soil and water conservation districts, and other grantees on fiscal administration of grants. Training is provided regionally and at the location of the grant recipient.

C. Restoration Inventory

OWEB has maintained a database of watershed restoration and enhancement projects since 1995. The database is maintained to document all grants completed by OWEB grantees. Other state grant programs require successful applicants to also report to the database. The Restoration Inventory is used to provide the starting data for effectiveness monitoring of restoration investments.

D. Conservation Reserve Enhancement Program

In September 1998, the Governor signed an agreement with the U.S. Secretary of Agriculture to cooperate on a program that provides incentives for restoring riparian forested habitats. The agreement to participate in this program will be up for renewal in 2002.

E. Watershed Council/SWCD Assistance

The regional staff of OWEB provide assistance to local conservation groups in their interaction with state agencies. They have assisted in the organization of technical assistance for councils and districts, provided regionally needed technical training, and provided forums for communication among councils and districts.

F. SWCD Small Grant and Landowner Workshops

OWEB has continued the program that has provided small grants available for soil and water conservation districts in a non-competitive manner. The Board has also funded landowner workshops through the conservation districts. This program is administered by the Oregon Department of Agriculture.

G. Watershed Technical Tools

OWEB has developed or made available technical tools for watershed groups to use. The tools developed and distributed by OWEB are the Watershed Assessment Manual, Water Quality Monitoring Guide, Guide to Permits, and Aquatic Habitat Restoration and Enhancement Guide.

H. Small Grant Program

The OWEB Board adopted administrative rules for a new small grant program in January 2002 that makes funding available more quickly for locally identified restoration priorities. Small Grant Teams made up of watershed councils, conservation districts, and tribes may form in 28 areas to award small grants to projects for up to \$10,000.

I. Watershed Research

The OWEB Board has recently developed a policy to prioritize and solicit research work that will support the Oregon Plan for Salmon and Watersheds. The research priorities will be developed based on the initial recommendations from the IMST, and input received from Oregon's scientific and research community, watershed groups, agencies, tribes and other Oregon Plan stakeholders.

5. **Contact Information**
Oregon Watershed Enhancement Board (OWEB)
775 Summer Street, NE - Suite 360
Salem, OR 97301-1290
Phone: (503) 986-0718
Fax: (503) 986-0178
<http://www.oweb.state.or.us>

A P P E N D I X

Table of Contents

No	Date	Chapter	Topic
1	03/27/02	Chapter III Conservation District Directors	<ul style="list-style-type: none"> • Public Official Ethics - ORS Chapter 244 • Oregon Government Standards and Practices Law • Public Official Ethics Scenarios
2	03/27/02	Chapter V Plans and Planning	<ul style="list-style-type: none"> • Business Plan and Annual Work Plan – A Simple Overview • Business Plan Concepts • Vision Statement • Mission Statement • Values and Guiding Principles • Describing a Natural Resource Concern • Sample Action Plan for Writing a Business Plan • Action Plans and Time Lines • Writing Objectives • Examples of Goals and Sub-Goals
3	03/27/02	Chapter VII Legislative Issues	Tax Election Ballot Measures for Conservation Districts

APPENDIX 1

Date: March 27, 2002

Chapter: III – Conservation District Directors

Topic: ORS Chapter 244 – Public Official Ethics

Attached are the following publications provided by the Oregon Department of Justice at a recent Attorney General Public Law Conference:

- Public Official Ethics: ORS Chapter 244
- Oregon Government Standards and Practices Law
- Public Officials Ethics Scenarios

APPENDIX 2

Date: March 27, 2002

Chapter: V – Plans and Planning

Topic: Business Plan Concepts

Attached are the following documents relating to business plans:

- Business Plan and Annual Work Plan – A Simple Overview
- Business Plan Contents
- Vision Statement
- Mission Statement
- Values and Guiding Principles
- Describing a Natural Resource Concern
- Sample Action Plan for Writing a Business Plan
- Action Plans and Time Lines
- Writing Objectives
- Examples of Goals and Sub-Goals